

# Exhibit 12

1  
2 UNITED STATES DISTRICT COURT NEW YORK  
3 FOR THE EASTERN DISTRICT OF NEW YORK  
4 -----X  
5 MARTIN TANKLEFF,  
6 Plaintiff,  
7 -against-  
8 THE COUNTY OF SUFFOLK, K. JAMES McCREADY,  
9 NORMAN REIN, CHARLES KOSCIUK, ROBERT DOYLE,  
10 JOHN McLELHONE, JOHN DOE POLICE OFFICERS  
11 #1-10, RICHARD ROE SUFFOLK COUNTY EMPLOYEES  
12 #1-10,  
13 Defendants.  
14 -----X  
15 666 Old Country Road  
16 Garden City, New York  
17 July 18, 2014  
18 10:15 a.m.  
19 DEPOSITION of ROBERT BAUMANN, a Non-Party  
20 Witness herein, taken by the Plaintiff,  
21 pursuant to Federal Rules of Civil Procedure  
22 and Notice, held at the above-mentioned time  
23 and place, before Dolly Fevola, Notary  
24 Public of the State of New York.  
25  
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1  
2 STIPULATIONS  
3 IT IS HEREBY STIPULATED AND AGREED, by  
4 and among counsel for the respective parties  
5 hereto, that the filing, sealing and  
6 certification of the within deposition shall  
7 be and the same are hereby waived;  
8 IT IS FURTHER STIPULATED AND AGREED that  
9 all objections, except as to form of the  
10 question, shall be reserved to the time of  
11 the trial;  
12 IT IS FURTHER STIPULATED AND AGREED that  
13 the within deposition may be signed before  
14 any Notary Public with the same force and  
15 effect as if signed and sworn to before the  
16 Court.

17 \* \* \*

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2

1  
2 APPEARANCES:  
3  
4 NEUFELD SCHECK BRUSTIN, LLP  
5 Attorneys for the Plaintiff  
6 99 Hudson Street  
7 New York, New York 10013  
8 BY: EMMA FREUDENBERGER, ESQ.  
9 ELIZABETH DANIEL VASQUEZ  
10  
11 SUFFOLK COUNTY DEPARTMENT OF LAW  
12 Attorneys for the Defendant  
13 H. Lee Dennison Building  
14 Hauppauge, New York 11788  
15 BY: BRIAN MITCHELL, ESQ.

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4

1 R. Baumann  
2 ROBERT BAUMANN, after having  
3 been first duly sworn by a Notary Public of  
4 the State of New York, was examined and  
5 testified as follows:  
6 EXAMINATION BY  
7 MS. FREUDENBERGER:  
8 Q State your name for the record,  
9 please?  
10 A Robert Baumann.  
11 Q State your address, please.  
12 A Hauppauge Crime Laboratory,  
13 Vets Highway.  
14 MS. FREUDENBERGER: Good  
15 morning, Mr. Baumann.  
16 THE WITNESS: Good morning.  
17 MS. FREUDENBERGER: My name is  
18 Emma Freudenberger. I'm one of the  
19 lawyers representing Marty Tankleff  
20 in the civil lawsuit.  
21 THE WITNESS: Nice to meet you.  
22 MS. FREUDENBERGER: Likewise.  
23 Q Have you ever had your  
24 deposition taken before in a civil case?  
25 A I don't believe so.

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1 R. Baumann  
2 Q Okay. Certainly, you've  
3 testified in court in criminal cases?  
4 A **That's right.**  
5 Q About how many times?  
6 A **Dozens.**  
7 Q You're being represented today  
8 by Mr. Mitchell at your deposition?  
9 A **Yes.**  
10 Q I'm sure counsel has gone over  
11 this with you, but I'll tell you a little  
12 bit about how it works.  
13 I'm asking you questions,  
14 you're answering under oath. If, at any  
15 point, you don't understand a question I've  
16 asked, just let me know and I'll rephrase  
17 it. If you do answer, I assume that you  
18 understood the question. If you want to  
19 take a break at any point, that's totally  
20 fine, let me know. The only thing I ask is  
21 that you answer the question pending before  
22 the break.  
23 A **Sure.**  
24 Q Okay. Mr. Baumann, tell me  
25 everything that you did to prepare for  
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6  
1 R. Baumann  
2 today's deposition?  
3 A **I read through the transcript**  
4 **that was sent to me by Mr. Mitchell.**  
5 Q Is that the transcript of your  
6 testimony at Mr. Tankleff's criminal trial?  
7 A **Probably most of it, but there**  
8 **was a number of pages that were missing.**  
9 MR. MITCHELL: Just don't  
10 mention any conversation that you  
11 had with me that would be privilege.  
12 Go ahead.  
13 A **This morning I looked -- Well,**  
14 **this morning I went through some of the**  
15 **notes on the case.**  
16 Q Okay. So again, when you said  
17 transcript, you're referring to the  
18 transcript of your testimony at Marty  
19 Tankleff's criminal trial in 1990?  
20 A **That's correct.**  
21 Q How long did you spend  
22 reviewing that testimony, approximately?  
23 A **A couple of hours.**  
24 Q When was that that you reviewed  
25 that testimony?  
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7  
1 R. Baumann  
2 A **Yesterday.**  
3 Q Okay. Prior to --  
4 MR. MITCHELL: Or --  
5 A **Was it yesterday? Either**  
6 **yesterday or the day before, I don't know.**  
7 Q Sometime --  
8 A **Sometime in the last couple of**  
9 **days.**  
10 Q Prior to the couple of hours  
11 you spent reviewing your testimony from  
12 Marty's criminal trial transcript in the  
13 last couple of days, have you reviewed your  
14 testimony at any point in time since you  
15 testified in 1990?  
16 A **I may have. I may have. I**  
17 **don't recall. I know that we had a couple**  
18 **of folks from the Attorney General's office**  
19 **come out. I may have looked through some of**  
20 **it then, I just don't remember.**  
21 Q Okay.  
22 A **But I also --**  
23 Q You think you might have  
24 reviewed your trial testimony before  
25 meeting?  
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8  
1 R. Baumann  
2 A **Perhaps. Perhaps.**  
3 Q Okay.  
4 MS. FREUDENBERGER: Do me a  
5 favor, for her sake, let me make  
6 sure I get the question out before  
7 you answer. It makes it easier for  
8 the court reporter.  
9 THE WITNESS: Okay.  
10 Q Any other reason that you can  
11 think of that you reviewed your trial  
12 testimony between when you were here in the  
13 last couple of days in preparation for this  
14 deposition and when you testified?  
15 A **No.**  
16 Q Okay. You said that you  
17 thought a few pages were missing. Why do  
18 you say that?  
19 A **Because looking through the**  
20 **numbered pages I believe I got down to about**  
21 **2294 or thereabouts and then the second**  
22 **group of pages that were there was a gap.**  
23 Q I see. Were there any  
24 conclusions that you recall reaching when  
25 you did the testing about which you  
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1 R. Baumann  
2 testified that you did not see reflected in  
3 the testimony that you reviewed?  
4 MR. MITCHELL: Objection to  
5 form. You can answer.  
6 **A No.**  
7 **Q** In other words, anything that  
8 causes you to say that pages were missing  
9 other than the fact that you noticed a gap  
10 in the pagination of the pages you reviewed?  
11 **A Could you just rephrase that.**  
12 **Q** Sure. Is there any reason you  
13 think pages were missing other than the fact  
14 that you noticed a gap in the numbering?  
15 **A No.**  
16 **Q** Okay. Tell me what other  
17 documents you reviewed in the past few days  
18 in preparation for the deposition?  
19 **A There was a memorandum that was**  
20 **written by the two investigators from the --**  
21 **I guess it was with the Attorney General's**  
22 **office back in '08 when they were down, and**  
23 **I reviewed that. That was a five-page**  
24 **document.**  
25 **Q** And did that memo appear to  
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10  
1 R. Baumann  
2 accurately summarize what you told those  
3 investigators in 2008?  
4 **A Not all, no.**  
5 **Q** Okay. In other words, you  
6 noticed some things that you reported to the  
7 investigators that were missing from their  
8 summary?  
9 MR. MITCHELL: Objection to  
10 form. You can answer.  
11 **A There were things on there**  
12 **that, first of all, were inaccurate and**  
13 **second of all, that I don't recall saying.**  
14 **Q** All right. We'll go through  
15 all that a little later on.  
16 Anything else that you reviewed  
17 in preparation for the deposition other than  
18 your testimony and that memo?  
19 **A Like I said, just the case**  
20 **notes.**  
21 **Q** When you say case notes, what  
22 are you referring to?  
23 **A The work I had done on the**  
24 **case, and also the crime scene that I had**  
25 **done with Detective Chuck Kosciuk.**  
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11  
1 R. Baumann  
2 **Q** So just to be precise, how many  
3 reports or worksheets did you review?  
4 **A Well, I issued a couple of**  
5 **reports. I issued one set of team page**  
6 **report. I know that there was a second**  
7 **report involving the analysis with Jerry**  
8 **Steuerman's blood sample and they are the**  
9 **only two that I can recall.**  
10 MS. FREUDENBERGER: Let's go  
11 ahead and mark those.  
12 **Q** Mr. Baumann, is that one of the  
13 reports you reviewed in preparation for your  
14 deposition?  
15 **A I saw this. I did not go**  
16 **through this. This is a preliminary report.**  
17 **Q** But this is, in fact, a  
18 preliminary report you prepared?  
19 **A Yes.**  
20 **Q** In connection with the work you  
21 did on this, right?  
22 **A Yes.**  
23 MS. FREUDENBERGER: Let's go  
24 ahead and mark this.  
25 (Whereupon, Plaintiff's  
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12  
1 R. Baumann  
2 Exhibits 1 through 2 were marked for  
3 identification.)  
4 **Q** Mr. Baumann, take a look at  
5 what's been marked Plaintiff's Exhibit 2.  
6 Is that the final crime scene report you  
7 prepared in this case?  
8 **A This is the serology report.**  
9 **Q** Okay.  
10 **A It's not the crime scene report**  
11 **but, yes, it is my report.**  
12 **Q** Okay. Is that one of the  
13 reports you reviewed in connection with your  
14 deposition prep?  
15 **A I reviewed this.**  
16 **Q** How long did you spend  
17 reviewing that?  
18 **A Not very long.**  
19 **Q** Like 10 minutes?  
20 MR. MITCHELL: I object to the  
21 form. You can answer.  
22 **A With everything that I looked**  
23 **at this morning, I probably spent an**  
24 **hour-and-a-half looking at the whole file so**  
25 **I did not commit it to memory. It has not**  
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1 R. Baumann  
2 **changed. It is what it is.**  
3 **Q** Okay. Did you review any of  
4 your actual worksheets in preparation for  
5 your deposition?  
6 **A** **No.**  
7 **Q** And so, when you say other  
8 crime scene reports on the crime scene, what  
9 are you referring to?  
10 **A** **Just the whole file going**  
11 **through to see what I had in there, what**  
12 **other people had. There was some hair**  
13 **analysis, there were other things in the**  
14 **file that I saw that I guess were a request**  
15 **for testing the hairs and all that. I just**  
16 **wanted to refresh my memory as to what I**  
17 **had.**  
18 **Q** So you reviewed reports on hair  
19 testing that was conducted in the case?  
20 **A** **I did not review them, I just**  
21 **went through it and said okay, this file**  
22 **looks like it has reports on hairs and notes**  
23 **on hair.**  
24 **Q** And did you review a report  
25 prepared by Suzanne Ryan in connection with  
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1 R. Baumann  
2 some hairs found at the crime scene?  
3 **A** **No, I did not review the**  
4 **report.**  
5 **Q** Other than the documents you  
6 noticed in the file on the hair testing,  
7 what other items of evidence stood out to  
8 you when you reviewed that file this  
9 morning?  
10 MR. MITCHELL: I object to the  
11 form. You can answer.  
12 **A** **I noticed that there was**  
13 **sketches of the scene, finished sketches in**  
14 **there. Actually, I want to go back and**  
15 **correct myself. I did look at some of my**  
16 **documentation on some of the items.**  
17 **Q** Okay.  
18 **A** **But when you say worksheets,**  
19 **what I took that to mean was the worksheets**  
20 **where I had put my results of my genetic**  
21 **marker analysis, so I did not review those**  
22 **but some of these I had looked at, at the**  
23 **sketches and the notes regarding some of the**  
24 **items, yes.**  
25 **Q** So you did review your sketches  
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1 R. Baumann  
2 and notes on the items that you analyzed,  
3 right?  
4 **A** **Yes.**  
5 **Q** Tell me which pieces of  
6 evidence you reviewed your sketches and  
7 notes on?  
8 **A** **Some of the sheets, barbells,**  
9 **knives, pillow cases, autopsy submission**  
10 **from Dr. Adams involving Arlene Tankleff.**  
11 **And again, the crime scene notes.**  
12 **Q** Whose crime scene notes did you  
13 review?  
14 **A** **The ones that Detective Kosciuk**  
15 **and I took.**  
16 **Q** Why did you review the autopsy  
17 report or notes concerning Arlene Tankleff?  
18 **A** **I did not review the autopsy**  
19 **report, just reviewed the submission sheet,**  
20 **the evidence that was submitted by Dr. Adams**  
21 **involving Arlene Tankleff because they were**  
22 **items submitted to us for examination.**  
23 **Q** Okay. Mr. Baumann, how many  
24 times did you meet with your attorney in  
25 preparation for your deposition today?  
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1 R. Baumann  
2 **A** **Once.**  
3 **Q** When was that meeting?  
4 **A** **A couple of weeks ago.**  
5 **Q** Okay. Was that in person or  
6 over the phone?  
7 **A** **In person.**  
8 **Q** How long did you meet for?  
9 **A** **About an hour.**  
10 **Q** You were served with a subpoena  
11 and notice pertaining to your deposition  
12 today, correct?  
13 **A** **I don't think so.**  
14 **Q** But at some point you learned  
15 you were going to be called in for a  
16 deposition today, right?  
17 **A** **Sure.**  
18 **Q** Since that time, other than  
19 that one-hour meeting with your attorney,  
20 tell me everybody else you've spoken with  
21 about this deposition here today?  
22 MR. MITCHELL: I object to the  
23 form. You can answer.  
24 **A** **I talked to Chuck Kosciuk.**  
25 **Q** When did you have that  
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1 R. Baumann  
2 conversation?  
3 **A Several months ago. It was not**  
4 **really a conversation. He said he had been**  
5 **called in for a deposition and I probably**  
6 **would be too, but that's it.**  
7 **Q** Did you discuss the substance  
8 of Mr. Kosciuk's testimony or anything that  
9 happened at the deposition with him?  
10 **A No.**  
11 **Q** Why not?  
12 MR. MITCHELL: I object to the  
13 form.  
14 **Q** Why not?  
15 MR. MITCHELL: I object to the  
16 form. You can answer.  
17 **A Because I was there and**  
18 **anything that you want to ask him I got**  
19 **nothing to hide and I don't have anything to**  
20 **corroborate with Mr. Kosciuk.**  
21 **Q** Do you have any understanding  
22 of what Mr. Kosciuk testified to at his  
23 deposition from any source?  
24 **A I have no idea.**  
25 **Q** Okay. Anybody else you've  
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1 R. Baumann  
2 talked to about this deposition here today?  
3 **A No, other than my boss to say I**  
4 **was going to be coming over for a**  
5 **deposition.**  
6 **Q** Okay. Are you married?  
7 **A Yes.**  
8 **Q** Did you tell your wife that you  
9 were coming here today?  
10 MR. MITCHELL: I object to the  
11 form. You can answer.  
12 **A Yes.**  
13 **Q** Did you have any conversation  
14 about the deposition or the case with your  
15 wife?  
16 MR. MITCHELL: Objection to  
17 form. You can answer. Wait.  
18 **A No.**  
19 **Q** When you say that you talked to  
20 your boss to tell him you were coming in, is  
21 that Mr. Genna?  
22 **A He knew I was coming in. Also**  
23 **Mr. Galdi. He's my supervisor. The chief**  
24 **of the lab is Robert Genna.**  
25 **Q** What did you say to Mr. Genna  
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1 R. Baumann  
2 about coming in for your deposition today  
3 and what did he say to you?  
4 **A That I was coming over and he**  
5 **is going to be given a deposition as well.**  
6 **Q** Okay. Any conversation with  
7 Mr. Genna about the work that you did on Mr.  
8 Tankleff's case at that time?  
9 **A No.**  
10 **Q** In fact, you've been at the  
11 Suffolk lab since the Tankleff murders in  
12 1988, right?  
13 **A That's right.**  
14 **Q** And Mr. Genna has too?  
15 **A Yes.**  
16 **Q** So you've been working together  
17 for 25 years?  
18 **A Yes, at least.**  
19 **Q** Have you discussed the Tankleff  
20 murders or any of the work that either of  
21 you did in connection with the Tankleff  
22 crime scene at any point in time since your  
23 testimony in 1990 with Mr. Genna?  
24 MR. MITCHELL: I object to the  
25 form. You can answer.  
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1 R. Baumann  
2 **A We have discussed it on**  
3 **occasion about the patterns on the sheets.**  
4 **You know, that's obviously become, you know,**  
5 **an issue. So, you know, when I examined the**  
6 **sheets, you know, it was brought to his**  
7 **attention. He had examined them and --**  
8 **Q** In other words, back in 1988  
9 when you examined the sheets, you observed  
10 ridge-like patterns on the sheets?  
11 **A Ridge-like impression.**  
12 **Q** Just to be clear, back in '88  
13 you observed certain impressions on the  
14 sheets when you examined them, correct?  
15 **A That's right, yes.**  
16 **Q** And you -- Well, we'll go  
17 through that a little later on, but those  
18 patterns and impressions on the sheets is  
19 something you discussed with Mr. Genna at  
20 various points in time since 1988, correct?  
21 **A On and off just on occasion.**  
22 **Q** Okay. Anything else you've  
23 spoken with Mr. Genna about in connection  
24 with the Tankleff murders or the work that  
25 you did on the crime scene other than those  
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1 R. Baumann  
2 impressions or patterns on the sheets?  
3 **A No.**  
4 **Q** Okay. All right. Other than  
5 Mr. Genna, who's your immediate supervisor  
6 who you just mentioned?  
7 **A Joseph Galdi.**  
8 **Q** Other than Mr. Genna and Mr.  
9 Galdi and Mr. Kosciuk and your wife, have  
10 you spoken -- and counsel -- have you spoken  
11 with anybody at all about the deposition  
12 here today?  
13 **A No.**  
14 **Q** Okay. You understand, Mr.  
15 Baumann, that Mr. Tankleff's conviction was  
16 vacated and he was released from prison in  
17 2007, correct?  
18 **A Yes.**  
19 MR. MITCHELL: Objection to  
20 form. You can answer.  
21 **Q** Since that time, have you  
22 talked to anybody else besides Mr. Genna  
23 about the substance of the work you did on  
24 Mr. Tankleff's case?  
25 MR. MITCHELL: I object to the  
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1 R. Baumann  
2 form. You can answer.  
3 **Q** I should say the people from  
4 the Attorney General's who interviewed you.  
5 **A I spoke to them. They**  
6 **interviewed me.**  
7 MR. MITCHELL: I think she  
8 means other than them.  
9 **Q** Other than the people from the  
10 AG's office who came out and interviewed you  
11 and subsequently about that memo, and Mr.  
12 Genna, since the time of Mr. Tankleff's  
13 release, have you talked to anybody else  
14 about the work you did in the late eighties  
15 on this case?  
16 **A No.**  
17 **Q** Okay. Do you have any  
18 understanding of any of the deposition  
19 testimony that's been given in this case  
20 from any source?  
21 MR. MITCHELL: I object to the  
22 form. You can answer.  
23 **A No.**  
24 **Q** Have you reviewed anybody's  
25 trial testimony from Marty's criminal trial  
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1 R. Baumann  
2 other than your own since 1990?  
3 **A No.**  
4 **Q** Okay. Let's do this, Mr.  
5 Baumann, if you would walk me through your  
6 education and experience starting with when  
7 you graduated from high school.  
8 **A Okay. Graduated from high**  
9 **school in '73.**  
10 **Q** Where is that?  
11 **A Seton Hall High School,**  
12 **Patchogue.**  
13 **Q** Okay. Did you go right on to  
14 college?  
15 **A No, I didn't. I served '73 to**  
16 **'76 in the Navy.**  
17 **Q** Where were you stationed?  
18 **A Norfolk, Virginia.**  
19 **Q** Okay. Are you still an active  
20 naval officer today?  
21 **A No.**  
22 **Q** Where did you go in '76?  
23 **A '76 when I got out, I believe**  
24 **beginning of '77, I began studies at Suffolk**  
25 **Community College and after two-and-a-half**  
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1 R. Baumann  
2 **years there transferred to the University of**  
3 **New Haven.**  
4 **Q** Were you working while you were  
5 at Suffolk?  
6 **A Yes.**  
7 **Q** What were you doing?  
8 **A Part-time carpet cleaning,**  
9 **waxing floors, climbing.**  
10 **Q** Climbing?  
11 **A Yes.**  
12 **Q** Okay. And then you transferred  
13 to New Haven?  
14 **A That's right, yes.**  
15 **Q** You finished your degree there?  
16 **A I did a bachelor degree in**  
17 **forensic science from the University of New**  
18 **Haven.**  
19 **Q** Was forensic Science something  
20 you were studying at Suffolk Community  
21 College as well?  
22 **A I took my general sciences**  
23 **there and transferred them over.**  
24 **Q** What caused you to specialize  
25 in forensic sciences?  
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1 R. Baumann  
2 **A I did okay in science in high**  
3 **school and I had wanted to get on to the**  
4 **police department, but I had found that**  
5 **there were laboratories that analyzed**  
6 **evidence, and I thought this might be**  
7 **something that I could be interested in so**  
8 **that's how I pursued it.**  
9 **Q** What year did you graduate from  
10 the University of New Haven?  
11 **A Might have been January of '82.**  
12 **Q** All right. What did you do  
13 immediately after college?  
14 **A I was working in the**  
15 **Engineering Department in the hospital at**  
16 **the time. I had finished up my internship**  
17 **and a few months after that I began working**  
18 **at the New Jersey State Police Lab.**  
19 **Q** Okay.  
20 **A And then, I was there for maybe**  
21 **four months, worked with the New York City**  
22 **Police Laboratory for about a**  
23 **year-and-a-half.**  
24 **Q** Let me stop you. Were you  
25 processing crime scenes when you worked for  
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1 R. Baumann  
2 the New Jersey State Police?  
3 **A No.**  
4 **Q** What were you doing with the  
5 New Jersey State Police?  
6 **A Training in forensic serology,**  
7 **processing rape kits for the most part.**  
8 **Q** Who did you train under there?  
9 **A A guy named Joselito Verstosa.**  
10 **Q** That was mostly processing rape  
11 kites, you said?  
12 MR. MITCHELL: You have to say  
13 yes or no.  
14 **A Yes.**  
15 **Q** You went to the NYPD lab from  
16 there?  
17 **A Yes, I did.**  
18 **Q** Okay. Were you in the serology  
19 unit there?  
20 **A For four months I trained in**  
21 **forensic chemistry and at the end of my**  
22 **training I transferred to their forensic**  
23 **serology section --**  
24 **Q** All right.  
25 **A -- where I processed evidence**  
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1 R. Baumann  
2 **and biological evidence.**  
3 **Q** Who did you train under at the  
4 NYPD lab?  
5 **A Who did I train under at the**  
6 **NYPD lab? Eddie Huggins. He was a sergeant**  
7 **at the time. Bob Schaler over at the**  
8 **medical examiner's office, I trained with**  
9 **him. I went to the forensic serology school**  
10 **with the FBI during that time.**  
11 **Q** And was that in '83?  
12 **A Might have been somewhere**  
13 **around there, and as well as the other**  
14 **analysts in the serology section of the**  
15 **police lab.**  
16 **Q** Did you work with Pete Pezula  
17 at all while at the NYPD lab?  
18 **A No, I didn't.**  
19 **Q** Was he there while you were  
20 there?  
21 **A No.**  
22 **Q** Where did you go from the NYPD  
23 lab?  
24 **A From the NYPD lab, I spent**  
25 **about a year-and-a-half there, I went to**  
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1 R. Baumann  
2 **Nassau Medical Examiner's office and did**  
3 **forensic serology there for two years.**  
4 **Q** Okay. And you went directly to  
5 Suffolk after that?  
6 **A That's right, yes.**  
7 **Q** Okay. Do you remember what  
8 year that was that you left Nassau County  
9 and went to the Suffolk lab?  
10 **A Yes, it was December of '85.**  
11 **Q** Why did you make that change  
12 out of curiosity?  
13 MR. MITCHELL: Objection to  
14 form. You can answer.  
15 **A Why did I leave? Because I was**  
16 **basically working -- The police department**  
17 **had the crime lab at the time, the medical**  
18 **examiner had the Nassau ME office. Dr.**  
19 **Lukash wanted to start his own crime lab.**  
20 **He wanted me to do more than just serology,**  
21 **which I was not qualified to do, and after a**  
22 **while there I saw that it was not going to**  
23 **happen so...**  
24 **Q** What do you mean it was not  
25 going to happen?  
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**A That the medical examiner's**

**Q** Of other individuals?

**office was not going to become a crime lab.**

**A Yes.**

**It was a police department added and I was**

**Q** Okay. Who do you train and in what topics?

**spinning my wheels. He was not going to**

**A We have interns that come in.**

**listen to what I had to say so I began**

**We give them direction as to how to examine evidence, how to document evidence, how to conduct the analysis on evidence that they are qualified to do.**

**looking for another job and Suffolk was**

**looking for people out here. They were**

**bringing in new people so I came out,**

**interviewed, and got the job out here.**

**Q** What position did you start in at the Suffolk County Medical Examiner's Office in '85?

**A Forensic Science I.**

**Q** That's an entry level forensic science position?

**A Yes.**

**Q** What section of the lab were you working in?

**A In serology.**

**Q** Okay. Is that under the biological sciences section?

**A That's what it was called before it was called biological sciences.**

**Q** Okay. When was your first

**Also, other people that may come in they have questions about, you know, certain types of evidence and how to best proceed and I would give them my opinion as to how to do that.**

**Q** Okay. Fair to say you are one of the more senior people in the lab today?

**A Yes.**

**Q** Mr. Baumann, do you conduct any DNA testing?

**A I do.**

**Q** How long have you been doing that work?

**A Since 1999.**

**Q** What type of DNA testing do you

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promotion, if you remember?

**A I don't recall.**

**Q** Okay. But at some point were you promoted to Forensic Scientist II?

**A Yes.**

**Q** Was that before the Tankleff murders?

**A After.**

**Q** Okay. And then, at some point, I gather you were promoted to Forensic Scientist III?

**A Yes.**

**Q** Is that your title today?

**A Yes, it is.**

**Q** When was that promotion?

**A Not sure but maybe 10 years ago.**

**Q** Okay.

**A Thereabouts.**

**Q** Do you conduct trainings at the Suffolk County lab?

**MR. MITCHELL:** Objection to form. You can answer.

**A Trainings of?**

perform?

**A STRs.**

**Q** Anything else?

**A No.**

**Q** And you've been doing that since '99?

**A Yes.**

**Q** Okay. Do you also have any training in blood spatter analysis?

**A I've had a couple of workshops that I've attended.**

**Q** When were those workshops, if you remember?

**A I don't recall. They would be on my CV, if you have a copy of that.**

**Q** I'm not sure we do.

**MS. FREUDENBERGER:** Can I request a copy of that for the record, Brian?

**MR. MITCHELL:** Yes, you may request. I may consider it.

**Q** Mr. Baumann, I should have asked earlier, did you bring any documents with you to your deposition today?

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**A I did not.**

**Q** What about pattern analysis, do you have any training in pattern analysis, either formal or on-the-job?

**A No.**

**Q** Have you, since 1990, conducted pattern analysis in any case at the Suffolk County lab?

**A No, I have not.**

**Q** Who does that at the lab?

**A That would be the Trace Evidence section.**

**Q** Okay. Do you work routinely with the Trace Evidence section?

**A They are within the laboratory, but I don't work other than sign in, say hello to some folks. I don't involve myself in their work. We have a pattern that needs to be examined, we would forward it to them.**

**Q** Okay. And you, Mr. Baumann, you're a civilian employee, correct?

**A That's right.**

**Q** Do you have any formal law enforcement training at all?

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**A No.**

**Q** What did you do in the Navy?

**A I went in as a recruit and I got stationed on a ship. I worked on deck for several months and then on-the-job training as well as book work, became a signalman.**

**Q** Okay.

MS. FREUDENBERGER: Just give me two minutes.

(At this time, a brief discussion was held off the record.)

**Q** Mr. Baumann, you mentioned earlier that you understand that impressions on the sheets that you examined back in 1988 in connection with this case have become an issue in this case, correct?

**A Yes.**

**Q** And that's something you've discussed with Mr. Genna over the years?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** Tell me the first conversation

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you remember having with Mr. Genna about the impressions on the sheets?

**A Well, from my recollection, it was probably around the time that we had collected the sheets and then brought them back to the laboratory.**

**Q** Okay. You've mentioned that you've had more than one conversation with Mr. Genna about impressions on the sheets over the years since Mr. Tankleff's conviction, correct?

**A I've had a couple of discussions.**

**Q** Okay, since Mr. Tankleff's conviction in 1990, tell me the first discussion you remember having with Mr. Genna about the impressions on the sheets?

**A I can't tell you when the first discussion was, I don't recall, but on and off a few times we've discussed the patterns.**

**Q** Okay.

**A I guess the most recent would have been when they were brought back to the**

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**laboratory and examined for the presence of palm prints or fingerprints or what have you.**

**Q** What did you discuss with Mr. Genna in -- Let's do it this way. I understand you don't remember the exact timing, but tell me the substance of the first conversation you remember having with Mr. Genna after Marty's conviction.

**A I don't know how many discussions we've had. I don't know that they were discussions other than the fact that, well, could it be other than perhaps a fabric or a glove that we had never found anything to really compare it to and that's it.**

**Q** Okay. In other words, no gloves were ever recovered from the Tankleff house where the murders occurred, correct?

**A Not that I can recall, no.**

**Q** Okay. And you've never seen anything indicating that gloves were recovered from the Tankleff home, correct?

**A That's correct.**

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R. Baumann

Q Okay. You know what, before we get to your conversations with Mr. Genna, let's go through it so I can be sure that we're on the same page and I'm not missing anything.

You were one of the crime scene analysts who responded to the Tankleff crime scene back on the day the bodies were found in 1988, correct?

A That's right, yes.

Q And you participated in the collection of evidence from the crime scene?

A Yes.

Q And you've examined and analyzed various items of evidence collected from the crime scene, right?

A Yes.

Q That analysis spanned a period of approximately two months, right?

A Yes.

Q And I think you mentioned earlier one of the items of evidence you examined were sheets from the bed in the master bedroom where Arlene Tankleff's body

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Q And you noted those patterns because at the time you believed they were potentially relevant evidence that would help solve the crimes, correct?

A Yes.

Q In other words, you believed that they were likely patterns left by the perpetrator or perpetrators left at the crime, correct?

A Yes.

Q I take it you considered various possible explanations for those ridge-like patterns on the sheets and pillow cases, is that correct?

A Yes.

Q You considered whether they might be fingerprints or palm prints in blood, correct?

A To me, they did not look like fingerprints, they looked perhaps something like a patterned glove like you might wear, a heavier glove for washing dishes or perhaps even a glove fabric impression of some sort.

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was found, correct?

A Yes.

Q And you made various observations about those sheets, right?

A Yes.

Q You observed a number of bloodstains on those sheets, right?

A Yes.

Q And analyzed those stains?

A Yes.

Q And one of the things you noted was the presence of ridge-like patterns in blood on the sheets, right?

A That's right, yes.

Q And on one of the pillow cases as well, correct?

A Yes, at least on one. I know there were several pillow cases. Which one not more than one had them and it would have been document in my notes, yes.

Q You observed a number of ridge-like patterns on the sheets and pillow cases; fair to say?

A Yes.

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I didn't know but there was a questionable impression that I thought that trace evidence should look at and subsequently they did.

Q A number of impressions, correct?

A Yes.

Q And they looked to you to either have been left by fabric gloves or rubber gloves, right?

A That was my guess.

MR. MITCHELL: Objection to form. You can answer.

Q Those were two possibilities you considered?

A Yes.

Q Did you also consider they might have been left by fabric swipes from clothing worn by the perpetrator?

A Could be. We did not have anything to compare it to, I don't think, but you would have to ask the person that did the analysis. My first impression was perhaps gloves. I mean, that was the first

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**thing that came to mind when I saw it.**

**Q** Okay. You considered a range of different possibilities, different types of gloves, fabric, correct?

**A** A range of gloves, be they rubber or be they fabric, I don't know.

**Q** What made you think -- Gloves were the first thing you mentioned. What made you think that they may have been left by gloves?

**A** You have two people dead in a house, somebody may want to wear gloves during the commission of a crime so as not to contaminate themselves and/or leave fingerprints. To me, it seemed like a logical explanation for what that pattern would be.

**I'm not saying it is a glove or it isn't a glove or it's something else. To me, it seemed to be a pretty logical deduction, you know, looking at the overall scene.**

**Q** Okay. So looking at the overall scene and looking at those

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impressions it looked to you that those impressions may have been left by gloves worn by a perpetrator, correct?

**A** May have been.

**Q** And you documented those impressions, correct?

**A** Yes.

**Q** And you passed them along both to -- Well, you passed them along to --

**A** Excuse me. I would like to just back up and say I documented them in my notes, but as far as photographing those I believe Trace Evidence did.

**Q** I did not ask about that. We'll go through it.

You documented them into your notes and you passed them along to two people, Bob Genna for a pattern analysis, right?

**A** Yes.

**Q** And Officer Mongan?

**A** I don't recall.

**Q** Okay. But you did pass them along for fingerprint analysis as well as

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trace analysis, right?

**A** I don't recall. I'm sure they went for trace analysis for pattern examinations, but I don't recall passing them onto Officer Mongan.

MS. FREUDENBERGER: Why don't we go ahead and mark your worksheets because we're going to refer to these as we go along.

Let's mark that as Plaintiff's Exhibit 3.

(Whereupon, Plaintiff's Exhibit 3 was marked for identification.)

**Q** Mr. Baumann, take a look at what's been marked as Plaintiff's Exhibit 3.

**A** Yes.

**Q** Can you identify that document for me?

**A** Yes. This is a copy of my notes regarding Item 4, two peach-colored sheets.

**Q** I see at the bottom, exam of pattern by Mongan, ID on 9/14. So does that refresh your recollection that you also

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passed along these impressions to Officer Mongan in the identification section?

**A** Yes.

**Q** So they would be examined for fingerprints, correct?

**A** Yes.

**Q** By the way, when you did that, was your expectation that Mongan would take photographs of potential finger/palm prints?

MR. MITCHELL: Objection to form. You can answer.

**A** I don't know what their policy is over there as far as examining something like this. You would have to look at his notes.

**Q** But back in 1988 -- Well, you worked closely with the identification officer and the Trace Evidence section, correct?

**A** Well, identification section is in Yaphank. It's not within our building so they are a separate entity from us.

**Q** But you send things to them routinely for identification, correct, if

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you spotted something you felt was a fingerprint, that's why you sent it?

MR. MITCHELL: Objection to form. You can answer.

**A We would send that if somebody requested fingerprints, yes.**

**Q** Okay. If you saw something that appeared to be a fingerprint, what would you do with it?

**A I would, depending on the scenario or depending on the case, I would forward it to ID. Sometimes I would just send it to the property bureau and if that type of analysis needed to be done, it could be recalled from there and further work can be done.**

**Q** Okay. But on the occasions when you sent something straight to ID, what would then happen? How would you find out their results?

**A I have no idea. I guess the District Attorney.**

MR. MITCHELL: Don't guess, just answer her question.

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**Q** That's right, don't speculate about anything.

**A I don't know.**

**Q** Back in the late eighties when you send things to the ID section and they conduct their analysis, you wouldn't find out the results?

**A Right.**

**Q** Okay. Regardless, you were expected when you passed this along to ID that they would do a thorough examination to ascertain whether fingerprints were or were not present on the sheets, correct?

MR. MITCHELL: I object to the form. You can answer.

**A I would assume.**

**Q** That was your expectation back in 1988?

MR. MITCHELL: I object to the form. You can answer.

**A I wouldn't have sent it if I didn't think they were going to conduct an analysis.**

**Q** Okay. You also forwarded the

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patterns you observed to Mr. Genna for analysis, correct?

**A Trace Evidence section, I believe it was Mr. Genna.**

**Q** Okay. And he looked at the various patterns you had identified, correct?

**A I believe so yes.**

**Q** And did analysis on them?

**A Yes.**

**Q** Okay. I should ask, by the way, what's your professional relationship with Mr. Genna like?

MR. MITCHELL: I object to the form. You can answer.

**A He's now the chief of the lab. At the time he was the supervisor of the Trace Evidence section.**

**Q** Okay. And today, how often do you interact with Mr. Genna professionally?

MR. MITCHELL: I object to the form. You can answer.

**A Every so often. If he's got something to convey to the individual or**

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**members of the laboratory, he'll come up and address it.**

**Q** Would you say you speak to him once a week, once a month?

**A Yeah, once a week, once every couple of weeks.**

**Q** Do you socialize?

**A Sometimes a couple times a week. It depends.**

**Q** Do you ever socialize with him outside work?

MR. MITCHELL: I object to the form. You can answer.

**A No.**

**Q** Okay. You understand that last year we, meaning Mr. Tankleff's attorneys, did our own enhancement and analysis on the bed sheets and pillow cases recovered from the master bedroom, correct?

MR. MITCHELL: I object to the form. You can answer.

**A I recall that being done in the laboratory, yes.**

**Q** Okay. Were you in the lab that

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day?

**A Yes.**

**Q** Okay. Are you familiar with the company Ron Smith and Associates?

**A No.**

**Q** You mentioned you were in the lab that day. Were you present for any of the enhancement or analysis that we did?

**A I stuck my head in there a couple of times.**

**Q** How long in total would you say you were there?

**A In the exam rooms?**

**Q** Yes.

**A Five minutes total.**

**Q** Okay. Was Mr. Genna also in the lab at that time?

**A I don't recall.**

**Q** At the time, we were also litigating a case against the State of New York and they brought an expert with them, Mr. Pizolla. Do you know Mr. Pizolla?

**A I know who he is. I can't say I know him.**

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**Q** Did you interact with him on the date we were doing enhancements out here?

**A No.**

MR. MITCHELL: Objection to the form.

**Q** I'll represent to you that we took various photographs after Ron Smith and Associates did enhancements on the sheets -- and you're nodding -- have you reviewed those photographs?

MR. MITCHELL: I object to the form. You can answer.

**A No, I did not.**

MR. MITCHELL: I'll let him answer that question. If you want me to stipulate things, the way you asked the question is as though you're testifying because you said, I'll represent that photos were taken.

I'm just saying that based on the way you asked the question it's as though you're testifying. If you

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those enhancements. How many conversations have you had with Mr. Genna since we did the enhancements on the sheets and pillow cases from Arlene Tankleff's bedroom about the enhancement, what they showed, what you observed back in the day?

**A I don't think I had any conversations with him regarding the enhancements or what they showed.**

**Q** You had a conversation with him just about the patterns and what you observed in the late eighties?

**A Over the years, you're talking about 25 years and when this has come up for whatever reason, and it's come up several times, you know, we probably mentioned, you know, gloves. We never found anything. You know, we never had anything to compare them to or perhaps we did. I don't know. It was just one of those things that was, you know, still part of this, you know, pattern that's unsolved.**

**Q** Okay.

**A So, you know, it's nothing**

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**like -- But I don't recall talking to Mr. Genna about the enhancements or the results of the enhancements. Really, I'm not concerned about it. You know, I've done my work on it. My work stands. I turned over all my stains to the State and I suppose did work on it. I have nothing to hide.**

MR. MITCHELL: Just answer the question.

**Q** I understand, but before we get too far afield, I understand. We're going to go through all the work that you did, the sheets and all.

**A Okay.**

**Q** I just want to know right now about the substance of your conversations with Mr. Baumann, and it sounds like what you're saying, correct me if I'm wrong, what looked to you and to Mr. Genna to be glove prints on the sheets were an outstanding issue in the case that was never resolved; fair to say?

**A I don't know that they ever received anything to compare to or if they**

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**Q** In relation to all the evidence you evaluated, right?

**A Specifically.**

**Q** Well, in general, I'm talking about generally now, what you do as a crime screen analyst. In general, when you're analyzing evidence, you're not looking at things in isolation under the microscope, you're taking into account the information you have from the various sources about what the evidence shows and how the crimes may have occurred, correct?

MR. MITCHELL: Objection to form. You can answer.

**A You have to look at the scene and see what you have, whether it's burglary, whether it's a homicide, whether it's a rape, and consider what kind of evidence may be present, yes.**

**Q** And you're considering individual items of evidence in context?

**A I suppose.**

**Q** Turning back to the fabric impressions, it sounds like what you're

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**did that anyone was saying, hey, this could have made those patterns.**

**Q** Okay. In other words, you saw what looked to you to be gloved prints in blood on the sheets?

**A Or a fabric impression. I don't know what it was. You know, I'm just saying my first supposition given the context of the scene.**

**Q** I understand.

**A That's all I'm saying.**

**Q** Taking into account the context of the scene, that's one thing that you do as a forensic scientist performing crime scene analysis, one thing you do is take into account the context of the scene you're looking at when you're analyzing evidence; fair to say?

**A I would say that's fair, yes.**

**Q** Certainly, you did that when you processed and analyzed evidence from the Tankleff crime scene, correct?

**A In what way? In relation to the pattern, yes.**

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saying is, looking at the bed sheets and considering the context, you considered a couple of possibilities that the impressions -- and one possibility was that the impressions were left by gloves, either fabric gloves or rubber gloves, correct?

**A Could be.**

**Q** It also looked to you like the impression may be left by a fabric swipe; fair to say?

**A I don't know.**

**Q** That was one possibility you considered at the time?

MR. MITCHELL: I object to the form. You can answer.

**A I don't know if I considered that at the time. It was a question impression that I thought beard looking at because there were numerous question impressions.**

**Q** And the question impressions appear to you to have been left by a glove or fabric of some kind?

MR. MITCHELL: I object to the

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1 R. Baumann  
 2 form. You can answer.  
 3 **A That was my guess at the time.**  
 4 **Q** Okay. It was not just an out  
 5 and out guess out of the blue, right? It  
 6 was a hypothesis you developed based on what  
 7 you knew about the crime, and based on what  
 8 you knew about the crime scene and what the  
 9 crime was, and the observations of what you  
 10 saw on the sheets?  
 11 **A Right, but I wasn't saying,**  
 12 **hey, this is from a glove, but the context**  
 13 **fact that you have two murders there.**  
 14 **Q** It was your working hypothesis  
 15 based on what you knew about the crime and  
 16 the crime scene and your observations of the  
 17 patterns; fair to say?  
 18 **A That there might be a pair of**  
 19 **gloves involved, yes.**  
 20 **Q** Okay.  
 21 **A Or a glove.**  
 22 **Q** One or more gloves involved,  
 23 correct?  
 24 **A Yes.**  
 25 **Q** Okay.

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1 R. Baumann  
 2 **A That would be a piece of**  
 3 **evidence we would be looking for, yes.**  
 4 **Q** Okay. As I think you said  
 5 earlier, no gloves were ever recovered from  
 6 the crime scene, correct?  
 7 MR. MITCHELL: I object to the  
 8 form. You can answer.  
 9 **A Not that I recall, no.**  
 10 **Q** In other words, so the source  
 11 of those impressions that you identified on  
 12 the sheets was never identified; fair to  
 13 say?  
 14 **A I believe that's correct.**  
 15 **Q** Okay. The fact that no source  
 16 was ever identified for the patterns you  
 17 observed on the bed sheets is something you  
 18 discussed with Mr. Genna over the years,  
 19 correct?  
 20 MR. MITCHELL: I object to the  
 21 form. You can answer.  
 22 **A If we had talked about it, that**  
 23 **would have been the substance of what we**  
 24 **talked about, yes.**  
 25 **Q** Okay. That's sort of an open

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1 R. Baumann  
 2 issue in the case so to speak, correct?  
 3 MR. MITCHELL: I object to the  
 4 form. You can answer.  
 5 **A Seems to be, yes.**  
 6 **Q** In your conversations with Mr.  
 7 Genna about that, did he agree with you that  
 8 that was one issue in the case you were  
 9 never able to resolve?  
 10 MR. MITCHELL: I object to the  
 11 form. You can answer.  
 12 **A I don't know what his final**  
 13 **opinion is.**  
 14 **Q** I'm not asking about his final  
 15 opinion, I'm just asking what he expressed  
 16 to you in the conversations that you had  
 17 about the fact that no source of these  
 18 impressions was ever identified?  
 19 MR. MITCHELL: I object to the  
 20 form. You can answer.  
 21 **A I don't think it went beyond**  
 22 **that. I don't recall really. It may have**  
 23 **just been mentioned and that's it**  
 24 **essentially is that we never had anything**  
 25 **submitted that -- Well, I don't know about**

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1 R. Baumann  
 2 **submitted, but we never came to the**  
 3 **conclusion as to what made those -- still**  
 4 **could be gloves -- you know, what else could**  
 5 **it be.**  
 6 **I don't know if there was**  
 7 **enough detail for him to form an opinion**  
 8 **other than that. You know, he may have had**  
 9 **his own opinions on that. I don't know.**  
 10 **Q** Why don't we go through and  
 11 actually identify the patterns you observed  
 12 and I'll show you what we uncovered when we  
 13 did enhancements on the sheets and pillow  
 14 case.  
 15 Before we do, tell me everybody  
 16 you spoke with about what you observed in  
 17 the lab on the day we did these  
 18 enhancements?  
 19 MR. MITCHELL: I object to the  
 20 form. You can answer.  
 21 **A Could you repeat that.**  
 22 **Q** I'll actually rephrase that.  
 23 Did you have any conversations with Mr.  
 24 Genna about the fact that we were doing  
 25 enhancements on the bed clothes from Arlene

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Tankleff's bedroom?

**A I knew that there was going to be a private agency that was going to come up and do the enhancements in the laboratory, yes.**

**Q** How did you learn that that was going to happen?

**A I believe through Mr. Genna.**

**Q** And what did he say to you and what did you say to him?

**A That they were going to come up and they were going to use the exam rooms for a couple of days and do the enhancements.**

**Q** Okay. What was your reaction when he told you that?

**A I was just interested to see what was going to be found. I really don't care one way or the other.**

**Q** Did you have a conversation with Mr. Genna after we came in and did the enhancements about what we had found?

**A No.**

**Q** Did you ever ask him what we

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had found?

G43.

MR. MITCHELL: Genna.

MS. FREUDENBERGER: Yes.

**A I don't think so.**

**Q** Okay. Did you have any discussion at all with anybody at any time about what you observed on that day when you poked your head in and we were doing enhancements on the bed sheets?

**A No.**

MS. FREUDENBERGER: Let's just take a break.

(At this time, a brief recess was taken.)

**Q** You still have Plaintiff's Exhibit 3 in front of you?

**A Yes.**

**Q** This is the worksheet you prepared based on your analysis of the bed sheets, correct?

**A Yes.**

**Q** It includes both sketches of the stains you observed on the bed sheet on

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the first page as well as notes on the individual stains, right?

**A Yes.**

**Q** Now, take a look at what's been marked Plaintiff's Exhibit 4, which is a series of four photographs, if you would.

**A Yes.**

(Whereupon, Plaintiff's Exhibits 4A through 8 were marked for identification.)

**Q** I just want to make sure we're on the same page about what we're seeing here. Let's start with the stain which you labeled S-4 on the second page of the worksheet.

MR. MITCHELL: Are you asking if he's ever seen these photographs before? Is it 4A, B, C, D or 4, 5, 6, 7?

**Q** Mr. Baumann, let's go back to Exhibit 3. Again, these are your notes on what you found when you analyzed the bed sheets, correct?

**A Yes.**

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**Q** Take a look at your notation on the stain labeled S-4 which is on the second page of Exhibit 3.

**A Okay.**

**Q** If you would read for me what you noted next to S-4.

**A "Red-brown stain about two-and-a-half by one-and-a-half inches. Contact or series of drops close to each other adjacent to ridge pattern."**

**Q** So you're indicating in your notes that stain S-4 is adjacent to one of the ridge patterns you observed, correct?

**A Yes.**

**Q** Now, granted this will make you more comfortable, I'll stipulate that these are photographs -- The photographs I'm showing you, which have been marked Exhibits 4A through D are photographs our experts from Smith and Associates took after they did enhancements on the bed sheets back in 2013.

MR. MITCHELL: Actually, you want me to stipulate.

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MS. FREUDENBERGER: I'm stipulating that.

MR. MITCHELL: You're representing that that's what they are.

MS. FREUDENBERGER: These are not photographs that he took or observed back then. However you want to do it.

MR. MITCHELL: This is a little semantics. You're representing that they are. You're asking me are you stipulating?

MS. FREUDENBERGER: I'm not. I'm offering to stipulate to that so there is no confusion about whether this witness took or observed these photographs.

You just tell me how you want to address your concern.

MR. MITCHELL: I'll stipulate that he did not take these photographs. What you're asking me is am I willing to say that these

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photographs were photographs taken by --

MS. FREUDENBERGER: No, you raised a concern earlier about the fact that he's never seen these photographs before. I'm offering --

MR. MITCHELL: I don't know that. We did not get to that yet.

Q Mr. Baumann, have you ever viewed --

MS. FREUDENBERGER: I asked him that earlier. He said he never looked at any of the photographs we provided.

MR. MITCHELL: Go ahead.

MS. FREUDENBERGER: I'm trying to avoid interruptions. You let me know if you have a problem with the way I'm doing this and we'll address it then.

MR. MITCHELL: Just go ahead.

Q Mr. Baumann, take a look at what's been marked 4A, just the first page.

Now, does this appear to be a

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photograph of the bed sheet that you looked at and labeled --

**A Yes, it does.**

Q -- Item number 4 back in 1988?

**A Yes, but it has additional markings on it.**

Q Correct. And you did not prepare any of the markings on this sheet that are visible in 4A, right?

**A Well, I had indicated as to 1 through S-15 on there.**

Q In other words, the numbers are yours but the circles are not, correct?

**A Correct.**

Q Now, take a look at the second page, 4B.

**A Yes.**

Q It's fair to be a closeup photograph of the stain which you labeled S-4?

**A Yes.**

Q Okay. And do you see S-4 is your writing and this three-sided rectangle, for lack of a better description, around the

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cutting is your writing as well, correct?

**A Yes, it is.**

Q Did you actually prepare this cutting of the stain visible in this photograph?

**A I did, yes.**

Q Do you see on 4B adjacent to the cutting you prepared a pattern the way this page is oriented above that cutting?

**A Up here?**

Q Yes.

**A Yes, I see that.**

Q In other words, why don't you circle on that exhibit -- Well, first, Mr. Baumann, is that the ridge pattern that you observed when you looked at the bed sheet pattern in 1988?

**A It appears to be.**

Q Why don't you circle that pattern and can you initial it as well.

**A (Complying.)**

Q The subsequent two pages of this exhibit, 4C and 4D, do those appear to be blown up photographs of that same

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pattern?

**A Yes, it does.**

**Q** Okay. Again, that's one of the patterns, one of the ridge patterns you observed and documented when you examined the bed sheet back in 1988, correct?

**A Yes.**

**Q** You can put that aside. Continuing with your notes on the second page of Exhibit 3, could you read the notation next to what you've labeled S-6 for me, please?

**A "Red-brown contact(ridge pattern) partially observable on periphery of stain, crescent shaped, about one and three eighths by one-quarter inch.**

**Also present about 1 inch from S-6 is clear ridge-like pattern.**

**Q** So is what you're noting here, both a ridge pattern on the periphery of the stain in a crescent stain, that's approximately one and three eighths by one and one quarter inches.

First, is that what you're

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noting in this notation?

**A My notation says red-brown contact (ridge pattern) partially observable on the periphery of the stain, crescent shape." What are you asking?**

**Q** In other words, you observed a crescent shaped -- Around this stain labeled S-6 you observed both a crescent shaped ridge pattern on the periphery of the stain, as well as a clear ridge pattern about an inch from the stain which you labeled S-6; is that what this note reflects?

**A I don't know. I guess you could read that a couple of different ways.**

**Q** Let's take a look at what's been marked 5A, which I'll represent to you is the first page of the second copy of the same photograph previously marked 4A.

**A Okay.**

MR. MITCHELL: 5A and 4A are the same picture.

MS. FREUDENBERGER: 5A and 4A are the same picture, yeah.

**A Okay. S-6 was a red/brown**

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**contact.**

**Q** Here, I'll take you through it. MR. MITCHELL: Wait.

**Q** I'll represent to you that 5B, C, D and E are photographs of stain S-6 in increasing magnitude. In other words, there are four additional photographs marked S-6.

**A Okay.**

**Q** Do those, in fact, appear to be the photographs of the stain you labeled S-6?

**A Yes.**

**Q** If you look at 5C, you can see two areas of ridge-like patterns, correct?

**A Yes.**

**Q** Okay. One is crescent shaped and the way this page 5C is oriented it's north of the cutting you made from the bed sheet, correct?

**A Right here?**

**Q** Why don't you circle the ridge-like patterns that you saw as they appear in this photograph?

**A All right. (Complying.)**

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**Q** Did you circle one or two?

**A This one looks like it would be also present ridge pattern partially observable in the periphery of this crescent stain. I don't see that there.**

**Also, present about an inch from S-6 is a clear ridge-like pattern which would appear to be this area (indicating).**

**Q** Okay.

MR. MITCHELL: Just for the record, on 5C you circled something, put your initials, correct?

THE WITNESS: Yes, I did.

MR. MITCHELL: You were asked if you only circled, I think -- How many circles? Make clear, you put one circle on that. This is just for the record, how many circles did you put on 5C?

THE WITNESS: There is one, sir.

MR. MITCHELL: That's all.

**Q** What you circled, you were just saying is a clear ridge-like pattern, yes?

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**A It appears to be, yes.**

**Q** Okay. Does it appear to have been left by fabric?

**A I don't know.**

**Q** Okay. You circled one item on 5C. Do you see -- Let's look at 5C again.

**A Okay.**

**Q** Does that also -- what I'm pointing to -- also appear to be a ridge-like pattern on 5C?

**A It does, yes.**

**Q** Is that one of the ridge-like patterns you observed?

**A I don't recall. This is most obvious in looking at it prior to treatment, you know, if this is enhanced that may not have been apparent to me at the time.**

MR. MITCHELL: Just clarify for the record, you pointed to something. Whatever way you want to do it so it's clear. What you pointed to and what you asked him about.

**Q** Is what I just pointed to, does

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that appear to be a ridge-like pattern?

MR. MITCHELL: You have to put on the record what you pointed to.

MS. FREUDENBERGER: I'm doing that.

**Q** I'm asking you what I just pointed to, does that appear to be a ridge-like pattern?

**A Yes, it does.**

**Q** But you're not certain if that's one of the ridge-like patterns that you observed back in 1988, correct?

**A Correct.**

**Q** So why don't you circle what I just pointed to right there. That's a good idea. Put a question mark and initial it.

**A (Complying.)**

**Q** Thanks. Now, take a look, if you would, at what's been marked Plaintiff's Exhibits 6A through D.

**A (Complying.)**

**Q** Does this appear to be a series of photographs of the south sheet you analyzed from the Tankleff bed?

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**A Yes.**

**Q** Take a look at the notation on the bottom of the second page of your worksheet on the bed sheets?

**A Right.**

**Q** Do you see where it says S. Sheet. S-16?

**A Yes.**

**Q** Okay. And here you're noting an additional ridge pattern, correct?

**A I described S16 as approximately 1 quarter inch area of red/brown stain in midst of QP1 ridge pattern.**

**Q** In other words, this is an additional ridge pattern that you identified on the south sheet, correct?

**A Yes.**

**Q** Does the photograph now marked 6B reflect that ridge pattern smear you noted on your worksheet?

**A Yes, it does.**

**Q** Okay. Does 6C appear to you to be a closer up photograph of the ridge pattern that you noted on item S16?

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MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** Put that aside. Now I'm going to show you what's been marked as Plaintiff's Exhibit 7. Is this a copy of the worksheet you prepared on item 20, which is one of the pillow cases from Arlene Tankleff's bed?

**A Yes.**

**Q** Take a look at your notation about four lines down on this worksheet. It appears to say two areas where ridge patterns appears (front and back on same side of pillow, one may be hand and palm and fingerprint (on backside.)

**A On backside.**

**Q** On backside?

**A Yes.**

**Q** In other words, you're noting here ridge patterns you've observed which you believe may be a hand or palm print on the pillow case, correct?

**A That's what it says, correct.**

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R. Baumann

R. Baumann

**Q** That's what you wrote after

**A Yes.**

examining that bed sheet, right?

**A While examining.**

**Q** While examining that pillow case, I should say.

**A Yes.**

**Q** You said while examining. Tell me quickly just the process you used for generating these worksheets? Were you taking these notes as you were actually looking at the pillow cases and sheets?

**A Yes.**

**Q** So here you contemporaneously documented ridge patterns you observed which you believed might be a hand or a palm print on one of the pillow cases from Arlene Tankleff's bed, correct?

**A Yes.**

**Q** Or fingerprints, right?

**A That's what it says, yes.**

**Q** You observed ridge patterns which you believed might have been left; a hand, a palm, a finger or a glove, as I think you said earlier, on both sides of the

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pillow case labeled Item 20, right?

**A Yes.**

**Q** Look at what I've marked

Plaintiff's Exhibits 8A through G, if you would.

**A (Complying.)**

**Q** You have a chance to review those?

**A The photo.**

**Q** Yeah?

**A It's the first time I'm seeing it.**

**Q** Take your time.

So does 8A appear to be a photograph of the pillow case you analyzed and labeled number 20?

**A Yes.**

**Q** Mr. Baumann, take a look at 8B, if you will?

**A (Complying.)**

**Q** I'm sorry, 8C.

**A (Complying.)**

**Q** Before you do, take a look at the bottom of your worksheet, Exhibit 7.

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**Q** And you saw that next to item S-4, right, that's what the S-4 colon means?

**A Yes.**

**Q** And below that it says ridge pattern on back and ridge pattern on front, right?

**A Yes.**

**Q** Okay. So you're documenting that you see a ridge pattern that looks like it might be part of a palm print, right?

**A Yes.**

**Q** And that's what I'm asking you. Is that ridge pattern which you documented while you were observing the pillow case reflected in photograph -- is that what's reflected in photograph 8C?

**A Yes. It appears to be, yes.**

**Q** Okay. Why don't you go ahead and circle what you identified as a possible palm print on that photograph, initial it.

**A (Complying.)**

**Q** Okay. Thanks very much. I think we can put all of these aside.

Mr. Baumann, you mentioned

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earlier that one of the documents you reviewed in preparation for your deposition was the memorandum prepared by individuals from the State who came out and interviewed you following Mr. Tankleff's -- the vacatur of his conviction and Mr. Tankleff's release from prison, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** We'll take a look at that later on, but one of the things I noticed in that memo is that you apparently went out and purchased rubber gloves from various supermarkets to try and locate the source of the patterns you observed on the bed sheets, correct?

MR. MITCHELL: I object to the form. You can answer.

**A It's news to me. I was stunned to see that. I did not do that at any time.**

**Q** You never went out and bought rubber gloves and tried to identify a source for these prints?

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R. Baumann

**A No, absolutely not.**

**Q** That's something that you believe was fabricated by the investigators?

MR. MITCHELL: I object to the form. You can answer.

**A I never said that. I never did it.**

**Q** Okay. Leaving that aside, in your mind at the time that you forwarded the ridge patterns you observed in blood on the sheets and pillow case to the Trace section and the ID section, in your own mind was the source of those patterns an important question to be resolved in the course of this investigation?

**A If they could shed some light on what they might be sure, it could be important.**

**Q** In other words, you believed that those --

**A But even at the time when we're at the scene, again, in the context maybe we're looking at a glove that may be involved.**

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**Q** In other words --

**A So I was certainly aware that these patterns exist and where they exist could be consistent with that of a glove or, you know, as I say, a fabric of some sort.**

**Q** I think I understand. In other words, when you were looking at these patterns, at the time when you were analyzing the sheets and pillow case and making these notations, you believed that the ridge patterns in blood you were observing might have been left by the perpetrator, correct?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** Okay. And so you believed that those patterns could be evidence that might help the lead detectives on the case identify a perpetrator, correct?

MR. MITCHELL: I object to the form. Go ahead.

**A Could you just repeat that question.**

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**Q** Sure. In other words, the reason that you were writing down and noting that you had seen these question ridge patterns was because you believed that they might have been left by the perpetrator or perpetrators of this crime at the crime scene, right?

**A Short of ruling out emergency services too, I didn't know what the circumstances were, but certainly a pair of bloody gloves might prove probative if found.**

**Q** So identifying the source of those apparent fabric impressions --

**A Yes, impressions.**

**Q** -- yes, impressions, was an important issue in the case in your own mind at the time that you documented and forwarded these along?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** In fact, I think you told us earlier that no source of those impressions

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1 R. Baumann  
 2 was ever identified, right?  
 3 MR. MITCHELL: I object to the  
 4 form. You can answer.  
 5 **A Not to my knowledge.**  
 6 **Q** And that's something you  
 7 discussed with Mr. Genna over the years,  
 8 correct?  
 9 MR. MITCHELL: I object to the  
 10 form. You can answer.  
 11 **A I believe so.**  
 12 **Q** Is that something that has  
 13 always troubled you about these crimes that  
 14 no source for these patterns was ever  
 15 identified?  
 16 MR. MITCHELL: Objection to  
 17 form. You can answer.  
 18 **A No, it has not troubled me, no.**  
 19 **Q** Okay. I'm going to ask you a  
 20 couple of questions about how the crime  
 21 scene worked back in the late eighties, but  
 22 before I do, by September of 1988, Mr.  
 23 Baumann, how many crime scenes,  
 24 approximately, had you processed?  
 25 **A I don't recall.**

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1 R. Baumann  
 2 **Q** Okay. Certainly, though, you  
 3 had been processing crime scenes since at  
 4 least 1982 when you joined the NYPD lab; is  
 5 that correct?  
 6 **A I didn't process crime scenes**  
 7 **at that time.**  
 8 **Q** When did you start processing  
 9 crime scenes?  
 10 **A When I came to Suffolk County.**  
 11 **Q** That was back late in 1985?  
 12 **A That's correct.**  
 13 **Q** How many crime scenes would you  
 14 process a month while you were at the  
 15 Suffolk County lab?  
 16 **A I don't know.**  
 17 **Q** Were you processing at least  
 18 one crime scene a week?  
 19 **A I didn't keep track. I don't**  
 20 **know. I can't answer that accurately.**  
 21 **Q** What was your day to day like  
 22 starting in December of '85 when you first  
 23 came to the Suffolk County lab?  
 24 MR. MITCHELL: I object to the  
 25 form. You can answer.

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1 R. Baumann  
 2 **A I would examine evidence for**  
 3 **biological stains if they were submitted as**  
 4 **I did here, description of the evidence, do**  
 5 **the testing corresponding to the evidence**  
 6 **that we were examining.**  
 7 **At times, we would respond to**  
 8 **crime scenes, process vehicles involved in**  
 9 **crime scenes out in the Westhampton impound.**  
 10 **Q** You can't tell me how often,  
 11 one way or the other, you responded to crime  
 12 scenes between 1985 and 1988?  
 13 **A No, we're talking 25 years ago.**  
 14 **I don't remember.**  
 15 MR. MITCHELL: Objection to  
 16 form. You can answer.  
 17 **Q** I'm trying to get a general  
 18 idea. Were you processing -- Was it more  
 19 like you go out to a scene once every six  
 20 months or more like you go out to a scene  
 21 once every few weeks?  
 22 MR. MITCHELL: Objection to  
 23 form. You can answer.  
 24 **A I believe it would be more**  
 25 **frequently then once every six months, but**

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1 R. Baumann  
 2 **again, I can't give you an accurate**  
 3 **estimate.**  
 4 **Q** Okay. Was Mr. Kosciuk already  
 5 working at the Suffolk County lab when you  
 6 started in December of 1985?  
 7 **A He was, yes.**  
 8 **Q** Okay. Was he one of the people  
 9 who trained you when you got to the lab?  
 10 **A Yes.**  
 11 **Q** Okay. So you worked very  
 12 closely with him prior to the Tankleff case?  
 13 MR. MITCHELL: I object to the  
 14 form. You can answer.  
 15 **A When I would respond to crime**  
 16 **scenes, I would work with him on occasion,**  
 17 **yes.**  
 18 **Q** Okay. Approximately how many  
 19 crime scenes had you done with Mr. Kosciuk  
 20 by 1988?  
 21 **A I have no idea.**  
 22 **Q** More than five?  
 23 **A I have no idea.**  
 24 **Q** You don't know one way or the  
 25 other?

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1 R. Baumann  
2 **A I don't know one way or the**  
3 **other.**  
4 **Q** Mr. Kosciuk is still in the lab  
5 today, correct?  
6 **A No, he's not.**  
7 **Q** Oh, he's not. Okay. When was  
8 the last time you spoke with him?  
9 **A I just said hello to him maybe**  
10 **a month ago. We had a barbecue.**  
11 MR. MITCHELL: Could you just  
12 answer the last time you spoke to  
13 him. She'll follow-up if she wants  
14 to.  
15 **A That's it.**  
16 **Q** What was the occasion of that  
17 last conversation?  
18 **A What was the occasion? We had**  
19 **a lab barbecue and he comes by for those and**  
20 **I just said hello to him and that was pretty**  
21 **much it.**  
22 **Q** Okay. Have you ever socialized  
23 outside of work with him leaving aside the  
24 lab barbecues?  
25 MR. MITCHELL: Objection to  
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1 R. Baumann  
2 form. You can answer.  
3 **A No.**  
4 **Q** Are you aware that he and Mr.  
5 Genna were involved in an accident  
6 reconstruction business?  
7 **A I know they do some work**  
8 **together, yes.**  
9 **Q** Have you ever done any work  
10 with them as part of their accident  
11 reconstruction business?  
12 **A No.**  
13 **Q** Have you ever worked with  
14 either of them outside the context of the  
15 lab in any capacity?  
16 **A No.**  
17 **Q** I'm going to show you, Mr.  
18 Baumann, some testimony from Mr. Kosciuk's  
19 deposition last fall and see whether you  
20 agree with it.  
21 Mr. Baumann, I'll just read  
22 this to you because I think it would be  
23 faster, but if you would like to see the  
24 testimony, you're more than welcome to.  
25 I'm reading from the deposition  
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1 R. Baumann  
2 of Charles Kosciuk on October 2, 2013. This  
3 is page 44, lines 24 to 45, line 8.  
4 "Q. Now, so getting back to  
5 your understanding of crime scene  
6 reconstruction, certainly, and this  
7 would be true in 1988, is that you  
8 look at all of the evidence that you  
9 can get, right, from documenting the  
10 scene and then you try to create  
11 hypotheses of how the crime might  
12 have occurred; fair enough?  
13 A. Yes."  
14 Mr. Baumann, would you agree.  
15 that those are basic principals of crime  
16 scene reconstruction including in 1988 is  
17 that you would gather everything that you  
18 can from a scene and work together to gather  
19 a hypothesis of what might have occurred?  
20 MR. MITCHELL: I object to the  
21 form. You can answer.  
22 **A Yes. You may establish that**  
23 **early on and it may change as you look at**  
24 **evidence at the scene. And also, when you**  
25 **get back to the laboratory there if**  
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1 R. Baumann  
2 **different sections are testing their**  
3 **evidence, you know, that hypothesis may have**  
4 **well changed. The ideas, you know, you**  
5 **don't have to lock yourself and say this is**  
6 **what happened. You just don't know. You**  
7 **can't just go in there and say, well, I have**  
8 **no idea what happened, so you've got to take**  
9 **some direction.**  
10 **Q** Okay. So let's break that  
11 down. So different sections of the crime  
12 lab have different specialties or areas of  
13 expertise, correct?  
14 **A That's right.**  
15 **Q** So you're primarily a  
16 serologist, correct?  
17 **A Yes.**  
18 **Q** So your area of expertise,  
19 correct me if I'm wrong, is in analyzing  
20 bodily fluids, correct?  
21 **A Yes.**  
22 **Q** Okay. And based on bodily  
23 fluids left at a crime scene, you can  
24 ascertain various things about how a crime  
25 may have occurred and who may have committed  
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1 R. Baumann  
 2 it; fair to say generally speaking?  
 3 **A Yes.**  
 4 **Q** And then, there are other  
 5 people in the crime lab with other areas of  
 6 expertise such as analyzing patterns or  
 7 analyzing fingerprints, correct?  
 8 **A That's right, yes.**  
 9 **Q** Analyzing blood spatter, things  
 10 like that?  
 11 **A Correct.**  
 12 **Q** So the process you engage in in  
 13 a homicide investigation such as this one is  
 14 that everybody would analyze evidence in  
 15 sort of within their own areas of expertise  
 16 and then come together as a team and  
 17 formulate a hypothesis, correct?  
 18 MR. MITCHELL: I object to the  
 19 form. You can answer.  
 20 **A That would be a reconstruction,**  
 21 **yes.**  
 22 **Q** Okay. And a reconstruction is  
 23 a team process; fair to say?  
 24 **A Yes.**  
 25 **Q** Okay. And you mentioned that  
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1 R. Baumann  
 2 you don't just start from scratch, you need  
 3 some direction, correct?  
 4 MR. MITCHELL: I object to the  
 5 form. You can answer.  
 6 **A Well, you're always starting**  
 7 **from scratch.**  
 8 **Q** That was a bad question. Let  
 9 me rephrase that.  
 10 I'm actually going to read you  
 11 something else Mr. Kosciuk said and see if  
 12 you agree with that. This is Page 33 of his  
 13 October 2nd deposition, lines 14 through 19.  
 14 "Q. Isn't there an interaction  
 15 between the people in charge of  
 16 doing reconstruction, the homicide  
 17 detectives at a crime scene and  
 18 people from the identification  
 19 units, do they work together?  
 20 A. Sure. It's a team."  
 21 And Mr. Baumann, in the process of  
 22 reconstruction you just described, the  
 23 homicide detectives participate as well,  
 24 correct?  
 25 MR. MITCHELL: I'm sorry, I  
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1 R. Baumann  
 2 didn't understand.  
 3 **Q** In the process of  
 4 reconstruction you just described, I asked  
 5 you about the process of different people  
 6 coming together and forming a hypothesis,  
 7 correct?  
 8 MR. MITCHELL: Object to the  
 9 form. You can answer.  
 10 **A They should come together.**  
 11 **Everybody who is part of the process;**  
 12 **medical examiner, trace evidence, serology,**  
 13 **you know, when the evidence comes together,**  
 14 **what does it indicate? What does it tell**  
 15 **you? If it does not tell you what your**  
 16 **original theory was, then you have to look**  
 17 **somewhere else. Well, that's what I'm**  
 18 **saying.**  
 19 **Q** Okay. So in other words, what  
 20 you're saying is what should happen in the  
 21 course of a proper investigation of a crime  
 22 scene in a major case is that everybody who  
 23 has analyzed evidence according to their own  
 24 areas of expertise should come together and  
 25 formulate or revisit the hypothesis of how  
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1 R. Baumann  
 2 the crime occurred based on all the  
 3 evidence?  
 4 MR. MITCHELL: Objection to  
 5 form. You can answer.  
 6 **A They should see what the**  
 7 **evidence indicates.**  
 8 **Q** And the homicide detectives are  
 9 an important part of that process, correct?  
 10 **A They are the ones that get the**  
 11 **reports at the end of the day, yes.**  
 12 **Q** Right. And they are the ones  
 13 who are directing the investigation, not the  
 14 lab analyst, correct?  
 15 MR. MITCHELL: I object to the  
 16 form. You can answer.  
 17 **A Well, they're not in the lab**  
 18 **telling me I should do this or do that. We**  
 19 **have the evidence and I'm going to examine**  
 20 **it regardless of what they tell me. That's**  
 21 **not their area of expertise, so I'm not**  
 22 **guided by Homicide telling me what I should**  
 23 **or should not do.**  
 24 **Q** Of course. In other words, I  
 25 think what you're saying is that your job is  
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1 R. Baumann  
 2 to objectively analyze the evidence as it  
 3 comes in, correct?  
 4 **A That's correct.**  
 5 **Q** And you report your findings to  
 6 the detectives in charge of the  
 7 investigation, correct?  
 8 **A Correct.**  
 9 **Q** And then, they decide what to  
 10 do with them, correct?  
 11 **A That's correct.**  
 12 **Q** That's the way Homicide worked  
 13 back in 1988 and today, correct?  
 14 **A Correct.**  
 15 MR. MITCHELL: Objection to  
 16 form. You can answer.  
 17 **A Yes.**  
 18 **Q** So in other words, the homicide  
 19 detectives are not in the lab looking over  
 20 your shoulder and telling you to, you know,  
 21 move the slide over in the microscope,  
 22 correct?  
 23 **A No.**  
 24 **Q** But they are active  
 25 participants in formulating the hypothesis

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1 R. Baumann  
 2 about how crimes occurred, correct?  
 3 **A They are interviewing**  
 4 **witnesses. They know things that we don't**  
 5 **know, so we're analyzing the physical**  
 6 **evidence and they are handling the rest of**  
 7 **the investigation.**  
 8 **Q** In fact, they are directing the  
 9 investigation, correct?  
 10 MR. MITCHELL: I object to the  
 11 form. You can answer.  
 12 **A I don't know if directing is**  
 13 **the right word. They are doing the**  
 14 **investigation.**  
 15 **Q** Right.  
 16 **A So they are in charge of the**  
 17 **investigation.**  
 18 **Q** Okay. And so your job is to  
 19 analyze evidence and pass it along to the  
 20 homicide detectives in charge of the  
 21 investigation, correct?  
 22 MR. MITCHELL: I object to the  
 23 form. You can answer.  
 24 **A Yes.**  
 25 **Q** And they make decisions about

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1 R. Baumann  
 2 what to do in the investigation taking into  
 3 account your findings, correct?  
 4 MR. MITCHELL: Objection to  
 5 form. You can answer.  
 6 **A Yes.**  
 7 **Q** Okay. And my understanding,  
 8 correct me if I'm wrong, is that often times  
 9 the homicide detectives in charge of an  
 10 investigation will come back to you, the lab  
 11 analyst, repeatedly and ask you questions as  
 12 their theory of the case evolves, correct?  
 13 MR. MITCHELL: Objection to  
 14 form. You can answer.  
 15 **A They will sometimes come back**  
 16 **and ask questions regarding evidence or**  
 17 **yeah, sometimes they ask us questions and**  
 18 **sometimes they don't.**  
 19 **Q** And sometimes they ask you to  
 20 do additional investigation, correct?  
 21 **A That's right.**  
 22 **Q** Additional analysis?  
 23 **A Correct.**  
 24 **Q** Look at evidence differently in  
 25 light of new information that's come in,

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1 R. Baumann  
 2 correct?  
 3 **A There may be evidence, again,**  
 4 **if it's collected it may go to the property**  
 5 **bureau and not examined initially so we may**  
 6 **get that call back to examine it. It may be**  
 7 **the Homicide Squad or whoever is doing the**  
 8 **investigation or maybe the District**  
 9 **Attorney's office.**  
 10 **Q** Okay. But certainly, let's  
 11 talk specifically about the Tankleff  
 12 investigation.  
 13 You were actually analyzing  
 14 evidence from the Tankleff crime scene for  
 15 several weeks, correct?  
 16 **A That's right.**  
 17 **Q** Okay. And so, this was not a  
 18 case where you did a day of analysis and  
 19 forwarded on your results and that was that,  
 20 right?  
 21 MR. MITCHELL: Objection to  
 22 form. You can answer.  
 23 **A That's right.**  
 24 **Q** So in a major case where the  
 25 investigation lasted for a period of months,

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fair to say the way things worked is that detectives might ask you to perform additional analysis or different analysis as new information came to their attention; is that something that would happen?

MR. MITCHELL: I object to the form. You can answer.

**A I don't know if that's accurate. Usually when we were finished with an item that would pretty much be it. If they called and said, could you look at this because of certain reasons, you know I would think that we would do it, but you know, that usually does not happen. I don't think I can recall in the past that that would happen. It may happen on occasion where, you know, something may come to light and you say, listen, you know, we might have some information for whatever reason, you know, could you look at it.**

**Q** Okay. So you -- Just let me stop you.

MR. MITCHELL: Let him finish

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his answer. You interrupted his sentence.

**Q** Were you done with your answer?

**A Sounds good to me.**

**Q** Okay. So let me ask you a slightly different question because I think we're talking about two different things.

You mentioned earlier that the process of reconstruction involves everybody involved in an investigation coming together and formulating a hypothesis about how the crime may have occurred, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Yes, true.**

**Q** That's how the process should work, right?

**A That's right.**

**Q** Okay. That's how it worked back in 1988, right?

**A I don't know.**

**Q** Okay. Is that how things work today?

MR. MITCHELL: I object to the

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form. You can answer.

**A I believe because I have not done crime scenes in the last 15 years up until two weeks ago, but I would think that there is discussion and I'm sure that there is discussion among, you know, the different investigative agencies, you know, conferences that are held, meetings that are held on the progress of a case and all that.**

**Q** But I'm talking about something different. Let's be a little more specific and talk about a homicide investigation.

By the way, was this your first homicide?

**A I don't know. I don't think so.**

**Q** Okay. So you had worked on homicide crime scenes prior to 1988, right?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** I believe what you told me earlier is that the way reconstruction should work is everybody from their

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different units should come together, discuss their findings, and formulate a hypothesis of how a crime may have occurred?

**A That's how a reconstruction should be.**

**Q** And certainly the lead detectives are part of that process, correct?

MR. MITCHELL: I object to the form. You can answer.

**A I would believe so, yes.**

**Q** And you also said, I believe, that it's important to revisit your hypothesis as the results of testing on evidence come in, correct?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** In other words, the last thing you want to do is be so wedded to your theory of how a crime occurred that you're not taking into account the forensic results as they come in; fair to say?

MR. MITCHELL: I object to the

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1 R. Baumann  
 2 form. You can answer.  
 3 **A You have to consider the**  
 4 **forensic results.**  
 5 **Q** Okay. In other words, in any  
 6 homicide investigation if you get forensic  
 7 results that contradict the working  
 8 hypothesis or theory of the case, it's  
 9 important to reevaluate that hypothesis  
 10 based on the new results; fair to say?  
 11 MR. MITCHELL: Objection to  
 12 form. You can answer.  
 13 **A Yes.**  
 14 **Q** That's an important principal  
 15 of crime scene analysis, right?  
 16 **A Yes.**  
 17 **Q** Very basic, right?  
 18 **A Yes.**  
 19 **Q** By the way, you understood that  
 20 in homicide cases, in serious cases  
 21 including homicide, important decisions were  
 22 made based on the analysis you performed,  
 23 correct?  
 24 MR. MITCHELL: Objection to  
 25 form. You can answer.  
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1 R. Baumann  
 2 **A Such as? Could you be clear**  
 3 **about that?**  
 4 **Q** Detectives and District  
 5 Attorneys were making decisions about the  
 6 case based on your analysis, correct?  
 7 MR. MITCHELL: Objection to  
 8 form. You can answer.  
 9 **A I would presume so.**  
 10 MR. MITCHELL: Don't presume.  
 11 I know it's a rhetorical question.  
 12 MS. FREUDENBERGER: It's not a  
 13 rhetorical question.  
 14 MR. MITCHELL: It answers  
 15 itself.  
 16 **Q** Did you understand back in 1988  
 17 that the decisions about the direction of an  
 18 investigation were going to be made based on  
 19 the analysis that you performed in the  
 20 laboratory?  
 21 MR. MITCHELL: I object to the  
 22 form. You can answer.  
 23 **A I don't know. When I issued my**  
 24 **report, what happened beyond that, other**  
 25 **than testifying in trial, I don't know. So**  
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1 R. Baumann  
 2 **I don't know what decisions were being made**  
 3 **beyond that in Homicide or the District**  
 4 **Attorney's office.**  
 5 **Q** Certainly, you understood that  
 6 it was important to accurately document your  
 7 work, correct?  
 8 **A Yes.**  
 9 **Q** Okay. Because your own  
 10 documentation would be forwarded up the  
 11 chain of command, correct?  
 12 MS. FREUDENBERGER: Withdrawn.  
 13 That's a bad question.  
 14 **Q** You understood that various  
 15 people would be reviewing and relying on the  
 16 work you documented, correct?  
 17 MR. MITCHELL: Objection to  
 18 form. You can answer.  
 19 **A Yes.**  
 20 **Q** For that reason you understood  
 21 back in 1988 that it was critical to  
 22 document the results of the analysis you  
 23 performed, correct?  
 24 **A Yes.**  
 25 **Q** And that's something, I gather,  
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1 R. Baumann  
 2 you did very carefully?  
 3 **A Yes.**  
 4 **Q** Meticulously even?  
 5 MR. MITCHELL: Objection to  
 6 form. You can answer.  
 7 **A To the best of my ability, yes.**  
 8 **Q** You have never reported  
 9 something orally or in writing that you are  
 10 not reasonably confident about it; fair to  
 11 say?  
 12 MR. MITCHELL: I object to the  
 13 form. You can answer.  
 14 **A Yes.**  
 15 **Q** Okay. You understood in 1988  
 16 that this was important to report your  
 17 findings accurately and objectively  
 18 regardless of whether they supported or  
 19 contradicted the working theory of the case,  
 20 correct?  
 21 MR. MITCHELL: Objection to  
 22 form. You can answer.  
 23 **A Yes.**  
 24 **Q** And you always did that,  
 25 correct?  
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**A Yes, I did.**

MS. FREUDENBERGER: I want to get into specifics, but we're going to take lunch. This is probably a good time. Can we take half an hour?

MR. MITCHELL: Whatever your pleasure.

MS. FREUDENBERGER: Let's come back here at 1:30.

(At this time, a recess was taken in order to accommodate a lunch.)

#### AFTERNOON SESSION

**Q** Mr. Baumann, I'm going to ask you some questions about how a forensic serologist identifies bodily fluids. Let's talk first just about testing for the presence of blood on the evidence. That's one thing a forensic serologist routinely does, correct?

**A Yes.**

**Q** And there are a number of different tests a forensic serologist used

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to test for the presence of blood on an object, correct?

**A Yes.**

**Q** Tell me about those tests. What's the first step in the process?

**A Examination, physical examination. Does it appear to be a blood stain?**

**Q** So first you do a visual examination?

**A Visual examination.**

**Q** Do you do that with a naked eye or a piece of equipment?

**A If you're able to see it with the naked eye, you do it with the naked eye. If not, you sometimes use a stereo microscope.**

**Q** What's a stereo microscope?

**A It's a microscope that you can use to magnify images up to 100 times.**

**Q** Okay. And then, after visual examination, what's the next step in the process?

**A Then you would do a presumptive**

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**test, a test indicating whether a stain may or may not be blood. There is a couple of different ones.**

**There's a number of them.**

**Typically, we've used in the laboratory Kastle-Meyer and the second test would be Leucomalachite.**

**Q** Let's stick with those presumptive tests. Those are extremely sensitive, correct?

**A They are not that sensitive. You know, thousands, perhaps one and five thousand, one and ten thousands, it's been my experience.**

**Q** Okay. What's the smallest amount of blood you've ever been able to detect on an object?

**A A crust, a tiny, very, very tiny. I don't know. I guess at the point of the limit of -- Using chemical tests you can detect it beyond which you can see. You know, not that you would always be looking to test areas where you don't see blood, but you do too. If you have say an object --**

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**you suspect there may be blood diluted to the point where it's invisible, you can use a chemical test that may indicate that blood is present.**

**Q** Okay.

**A Sometimes it's a point where you can't see it visibly, you can still detect it using the chemical testing.**

**Q** Are we still with the presumptive test or the second round of tests, the confirmatory test?

**A Presumptive.**

**Q** So even with the presumptive test you can detect blood beyond the level that you can see it with a stereo microscope, correct?

**A Yes.**

**Q** That sounds extremely sensitive to me. You would not characterize it that way?

MR. MITCHELL: Objection to form. You can answer.

**A Well, now you're getting into the maybe one and 500, one and 1000. About**

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**one and 500 it's been our experience that you're not going to see blood when it's diluted at that point. That's what we set up our internal controls as.**

**Q** Okay. Following a presumptive test for blood, what's the next step in the process? I'm just asking about identifying blood.

**A** Then you would do a confirmatory test --

**Q** Okay.

**A** -- if you have sufficient quantities.

**Q** Okay. And how does a confirmatory test work?

**A** Well, you could do one of two ways, either with a crystal test, Teichman, and there's a second crystal test Takayama, neither of which we used in our laboratory, but that is one option to identify blood.

Another way would be to do it immunologically is how we do it, and we did it at that time using antisera directed against antihuman species and antihuman

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**hemoglobin. So what you would do is make an extract of your stain and then react it with the antiserum to see if you get a positive reaction.**

**Q** That tells you whether it's human blood or not, correct?

**A** Right, that would tell you if what you were dealing with was of human origin and if you had human hemoglobin, yes.

**Q** And if you had performed a presumptive test on the night for the presence of blood and you don't get any result and you suspect that you might be encountering a false negative, are there tests you can do at that point to determine whether or not you're getting a false negative or not?

MR. MITCHELL: I object to form.

**A** No, I would stop at that point. I would just say the blood was not detected.

**Q** Okay. And is that because --

**A** However, if it was in a stain form and I was still suspicious that it

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**might be blood, I would make an extract of that stain and react it with the antiserum. At the end of the day that would give me the same indication as to whether or not you had human hemoglobin present or something of human origin if you thought you were going to get a false positive -- false negative.**

**Q** False negative, you mean?

**A** Yes.

**Q** Okay. But otherwise, it sounds like what you're saying is that the presumptive test for blood is reliable enough that if it comes back negative that's sufficient for you to conclude there is not blood present on the object, correct?

**A** That's where I would end my analysis unless, like I said, unless in the unusual case where I thought perhaps, you know, this stain definitely looks like blood, but that's what presumptive tests are for. They are not totally specific but they are sensitive enough. There's very few false positives.

**Q** False negatives?

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**A** False positives. So if it's negative, to me it's a negative test.

**Q** In other words, the presumptive test, in your experience, is reliable enough that if it comes back negative that tells you there is no blood on the object?

**A** I would be comfortable with that, yes.

**Q** Okay. So, Mr. Baumann, going to September 7th of 1988 was the day that the Tankleffs' bodies were found. You responded to the crime scene on that day?

**A** I did.

**Q** Who asked you to respond to the crime scene?

**A** I was notified by, I believe, the supervisor in my section at the time said that they had a crime scene and they needed somebody to respond.

**Q** Do you recall what time that was?

**A** Sometime in the morning because I believe we arrived there a little before noon.

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**Q** Okay. Who did you travel to the crime scene with?

**A I believe it was Robert Genna. We're down as arriving at the same time on the sheet so I presume that it was him.**

**Q** Okay. And who else from the lab was present when you and Genna arrived at the crime scene?

**A I believe it was indicated to be Dan Berhans, George Reich and, I think, Chuck Kosciuk may have been there at the time.**

**Q** What did you do when you got to the scene?

**A We waited outside of the scene until we were notified that we could go in and start doing our work.**

**Q** When you say, we waited, who were you waiting with?

**A I was waiting outside the scene with -- Who was there? I think it was Reich, maybe Dan Berhans -- I don't remember at the time -- Genna. I don't know how long they stayed or when they left.**

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**Q** So you waited outside the scene with some number of other lab personnel; fair to say?

**A Yes.**

**Q** By the way, I take it it was clear to you from the moment you arrived at the scene that this was a big case; would you agree?

MR. MITCHELL: I object to the form. You can answer.

**A No, it was a double homicide in a well-to-do area so...**

**Q** In other words, this was clearly a case that was going to receive a lot of attention from the public and from the press, correct?

MR. MITCHELL: I object to the form. You can answer.

**A It would seem to, sure.**

**Q** Okay. It was obviously going to be a high profile case; fair to say?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

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**Q** When did you learn that it was a double homicide? Did you know you were responding to the scene of a double homicide?

**A I don't recall. However, I'm sure when we were there we found that out.**

**Q** That's something you must have learned early on, correct?

MR. MITCHELL: I object to the form. You can answer.

**A I don't know if I became aware that one person was dead and one person may have been alive, both people dead, I don't recall.**

**Q** Okay. Had you worked with Kosciuk, Berhans, Reich and Genna before this crime scene?

**A Well, they were working the lab. They all work in the lab so I guess that would be a yes.**

**Q** Okay. And in your experience, are they individuals with a good working understanding of the crime scene protocols and procedures in place at the time?

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MR. MITCHELL: Objection to form. You can answer.

**A I believe so, yes.**

**Q** Were you aware in 1988, at the time when you responded to the crime scene in this case, that the crime scene unit had come under some criticism for the way they processed crime scenes?

MR. MITCHELL: Objection to form.

**A No, I was not aware of that. Which crime scene units would that be?**

**Q** I'll move on.

No question in your mind based on your relationship with and knowledge of the way Kosciuk, Berhans, Reich and Genna worked that they were all very careful when processing this particular crime scene, correct?

**A I remember working with Chuck Kosciuk and I remember George Reich was there as well. I don't really have recall of Bob Genna or Dan Berhans being at the scene for an extended time. They may have**

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**gone in and left it to the three of us and then -- That's my recollection.**

**Q** Any reason to think that Berhans or Genna would not have been careful to adhere to crime scene protocols and procedures in this high profile crime scene?

MR. MITCHELL: I object to the form. You can answer.

**A No.**

**Q** Okay. In other words, everybody understood walking into this crime scene that it was important to proceed carefully and observe all proper protocols and procedures, correct?

MR. MITCHELL: I object to form. You can answer.

**A Yes.**

**Q** Did you see anything at all that caused you concern as to whether those protocols and procedures were being followed at this particular time?

MR. MITCHELL: Objection to form. You can answer.

**A No. As far as the way that we**

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**had processed the scene, I didn't see any problem with that, no.**

**Q** Okay. And certainly, if you had seen any problems or anything suggesting that the scene was being contaminated in any way that is something that you would have reported or documented, correct?

**A Yes, I would like to think so.**

**Q** Okay. Based on your practices at the time, if you had seen anything suggesting to you that there was contamination of the crime scene, you would have written it down somewhere, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** That would be in the file in this case somewhere?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** Okay. And you did not see anything like that, correct?

**A No.**

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**Q** Okay. At a certain point, I gather, you were informed that you could come in and start processing the crime scene, correct?

**A That's right.**

**Q** Who informed you of that?

**A I don't recall.**

**Q** Okay. Was it a homicide detective?

MR. MITCHELL: I object to the form. You can answer.

**A I don't recall.**

**Q** You don't recall one way or the other. Okay. By the way, do you have an independent memory, as you sit here today, of what you did at the crime scene that morning?

**A Somewhat.**

**Q** Okay. Well, at a certain point you entered the house and began collecting evidence, correct?

**A Yes.**

**Q** And I gather you did not just walk in and start picking up the first

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things you saw, right, there is some sort of method to the manner of what you collected when?

**A Yes.**

**Q** From whom were you taking direction as to what evidence should be collected?

MR. MITCHELL: Objection to form. You can answer.

**A I worked along with Detective Kosciuk. He had more experience than I had at the time and we worked together to process evidence, I believe. I don't know who did the walk-through but the various aspects of the scene were pointed out.**

**Q** Let me stop you there to make sure I understand. Before the crime scene was actually processed, protocol would have been for somebody from the Homicide Squad to do a walk-through with somebody from the crime scene; is that what you're saying?

**A At the time, somebody from Homicide, somebody from ID, and somebody from the lab would do the walk-through. I**

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1 R. Baumann  
2 **did not do the walk-through.**  
3 Q Okay. Do you know who did the  
4 walk-through in this case?  
5 A I don't.  
6 Q Do you know whom from Homicide  
7 did the walk-through?  
8 A I don't.  
9 Q But somebody did a walk-through  
10 and learned from the homicide detectives  
11 what evidence should be collected, correct?  
12 MR. MITCHELL: I object to the  
13 form. You can answer.  
14 A I don't know that they learned  
15 what evidence should be collected. They may  
16 have learned about the scenario and got to  
17 observe the overall scene start getting an  
18 idea of what they had, what potential  
19 evidence they needed to collect, what might  
20 be obvious, what may not be obvious.  
21 Q So someone from the crime scene  
22 would learn what Homicide has put together  
23 as far as the working theories in the case;  
24 is that fair to say?  
25 MR. MITCHELL: Objection to  
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1 R. Baumann  
2 form. You can answer.  
3 A That's often bounced around as  
4 to what might have happened.  
5 Q That was the procedure,  
6 practice, at the time?  
7 MR. MITCHELL: I object to the  
8 form. You can answer.  
9 A I think so.  
10 Q So based on your experience in  
11 1988, would it be fair to say the way you  
12 knew what evidence to collect -- one way  
13 that you knew what evidence to collect was  
14 based on the walk-through that a homicide  
15 detective would do with a member of the  
16 crime scene unit prior to you entering the  
17 scene; would that be fair to say?  
18 MR. MITCHELL: I object to the  
19 form. You can answer.  
20 A Could you repeat that.  
21 Q Why don't you tell me how you  
22 knew -- How did you decide what evidence to  
23 collect?  
24 A As we went along, we determined  
25 as we processed the scene, we decided to  
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1 R. Baumann  
2 **take objects of evidence. I don't recall**  
3 **specifically. There may have been things**  
4 **that were pointed out that you might want to**  
5 **take that or this or that. There is some**  
6 **things that are obvious, you know, that just**  
7 **kind of stand out. It's like maybe we**  
8 **should take that. You know, you do it as**  
9 **you go along. And there may be things that**  
10 **Homicide sees or are aware of that they want**  
11 **to have it looked at based on information**  
12 **that they may know.**  
13 **So you're not just walking in**  
14 **there and saying -- Well, some scenes you**  
15 **do -- I suppose they have more information**  
16 **than others. Again, they are conducting the**  
17 **investigation and if they think certain**  
18 **things are important, we'll take those along**  
19 **with things that we find as we go along as**  
20 **well.**  
21 Q At this crime scene you were  
22 collecting evidence both based on what  
23 seemed obvious to you as you were walking  
24 through and also based on what homicide  
25 detectives had communicated to somebody in  
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1 R. Baumann  
2 the crime scene unit was important to be  
3 collected given what they knew about the  
4 crimes; fair to say?  
5 A I suppose.  
6 Q Okay. And just to be precise,  
7 not just what you suppose, that's what you  
8 did. That's how you decided what to gather  
9 in this crime scene, right?  
10 MR. MITCHELL: Objection to  
11 form. You can answer.  
12 A Yes, I'm sure that there were  
13 probably some items that they indicated that  
14 they would like taken and tested.  
15 Q Okay. You mentioned that you  
16 got to the crime scene shortly before noon,  
17 correct?  
18 A Yes.  
19 Q Obviously, you know that Marty  
20 Tankleff confessed to killing his parents  
21 sometime on the morning of September 7th,  
22 right?  
23 MR. MITCHELL: Objection to  
24 form. You can answer.  
25 A I don't know that I knew that  
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R. Baumann

**at that time. I can't say I knew. I can't say when I became aware of that.**

**Q** Okay. So you might have known it, you might not, when you went to the crime scene?

**A Perhaps.**

**Q** You don't remember one way or the other?

**A No, I don't.**

**Q** All right. But as you said, you were not just collecting evidence in a vacuum, you were collecting evidence at least in part based on information that the homicide detectives had at the scene about how the crime might have occurred?

**A I don't recall, but that's very possible.**

**Q** All right. That would have been your practice at the time?

MR. MITCHELL: I object to the form. You can answer.

**A Yes.**

**Q** Mr. Baumann, as you sit here today, do you have an understanding of the

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R. Baumann

details of the confession that Marty Tankleff gave back in September of 1988?

MR. MITCHELL: Objection to form. You can answer.

**A No, I don't know the details. I was not there.**

**Q** I understand you were not there, but do you have an understanding as to the gist of how Marty Tankleff described committing these crimes to the detectives in September 7, 1988?

MR. MITCHELL: Objection to form. You can answer.

**A Just in general what I've heard, no.**

**Q** Let's take a look at --

**A Well, from what I understand, he used barbells, he used a knife, but it's --**

**Q** Where is that understanding? Let's start with the knife. Where does your understanding that he used a knife come from?

**A Well, I remember hearing that**

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R. Baumann

**at some point. When, I don't know, but somewhere along the way that a knife was used.**

**Q** And, in fact, you conducted extensive testing for blood on one of the knives recovered from the scene, correct?

**A A number of knives from the scene.**

**Q** Okay. The reason that you were conducting testing on knives at the scene was because Marty had confessed using a knife, correct?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know that that was the reason. It was suspected that a knife was used so we collected knives at the scene. We were not looking for a gun at the scene. I think the injuries were somewhat apparent from somebody, you know, and also looking at the injuries at the scene. I mean we could see that she had lacerations across her throat so obviously a sharp instrument such as a knife would be suspected to be**

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**involved.**

**Q** All right. Let's go through the confession.

**A Okay.**

MS. FREUDENBERGER: Why don't we mark this as 9.

MR. MITCHELL: I would just ask him, have you ever seen the confession of Mr. Tankleff?

THE WITNESS: No.

MR. MITCHELL: All right. What you're marking is a supplemental report?

MS. FREUDENBERGER: Yes.

MR. MITCHELL: In other words, you're not marking the confession.

MS. FREUDENBERGER: I will. Let's mark both.

MR. MITCHELL: Whatever you want. This is just for clarification of the record.

MS. FREUDENBERGER: I'll do it. Don't worry.

MR. MITCHELL: If you're going

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1 R. Baumann  
 2 to ask him questions about documents  
 3 he has not seen --  
 4 MS. FREUDENBERGER: I'm not.  
 5 MR. MITCHELL: Okay. I don't  
 6 mind you formulating your questions  
 7 from these documents, but if you  
 8 read him from the document --  
 9 MS. FREUDENBERGER: I'm going  
 10 to read him from the document and  
 11 he's going to have a copy in front  
 12 of him.  
 13 MR. MITCHELL: Then, quite  
 14 frankly, I don't mind you  
 15 formulating a question but to read  
 16 from a document he's never seen  
 17 before has no basis and relevance at  
 18 all. If you want to ask him -- this  
 19 is just a for instance -- if the  
 20 document says the sky is blue and  
 21 you just want to ask him was the sky  
 22 blue, I don't object to that. But  
 23 if you want to say to him this  
 24 document says the sky is blue, was  
 25 the sky blue, there is really no  
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1 R. Baumann  
 2 basis to do that because he's never  
 3 seen the document before.  
 4 I don't mind you formulating  
 5 any question you want, but it's a  
 6 waste of time to ask him to read  
 7 something to him that he's never  
 8 seen before and then ask him a  
 9 question. Do whatever you want.  
 10 MS. FREUDENBERGER: I don't  
 11 understand your objection.  
 12 MR. MITCHELL: I'll give you  
 13 another example.  
 14 MS. FREUDENBERGER: No need for  
 15 another example. I'm giving him a  
 16 copy of the supplemental report that  
 17 contains Marty's confession and  
 18 we're going to go over it together  
 19 because he never read it before.  
 20 MR. MITCHELL: What's the  
 21 purpose of going over it if there is  
 22 no relevance in it?  
 23 MS. FREUDENBERGER: There is.  
 24 MR. MITCHELL: If you want to  
 25 ask him if the things in that  
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1 R. Baumann  
 2 document refresh his recollection,  
 3 you can do that. If you want to  
 4 formulate a question from the  
 5 document, go right ahead. But to  
 6 show him a document he's never seen  
 7 before, there is no relevance in  
 8 asking him a question about a  
 9 document he's never seen before.  
 10 I don't have a problem with  
 11 formulating a question, looking at  
 12 the document yourself or even asking  
 13 him if, for some reason, you need  
 14 him to have a document to understand  
 15 your question, I don't object, but  
 16 just for an example and then I'll be  
 17 done, you asked him questions from  
 18 Mr. Kosciuk's deposition. You said,  
 19 question and answer, and then you  
 20 asked a question separate from that.  
 21 I didn't object to that although  
 22 asking the question and the answer  
 23 there is no purpose for that.  
 24 MS. FREUDENBERGER: I asked him  
 25 if he agreed with Kosciuk.  
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1 R. Baumann  
 2 MR. MITCHELL: And guess what,  
 3 that's a flat out irrelevant  
 4 question.  
 5 MS. FREUDENBERGER: That's  
 6 totally proper.  
 7 MR. MITCHELL: It's proper for  
 8 a deposition, but the point is  
 9 what's the relevance? And quite  
 10 frankly, you did not ask him if he  
 11 agreed with him. You asked him a  
 12 question and answer and formulated a  
 13 question.  
 14 Just formulate the question.  
 15 It moves things along so much  
 16 faster. Go ahead. I'm done.  
 17 MS. FREUDENBERGER: It's Marty  
 18 Tankleff's confession. We all agree  
 19 it's relative to the case.  
 20 MR. MITCHELL: It's not for  
 21 this deposition.  
 22 MS. FREUDENBERGER: It is  
 23 actually and you'll see how. You  
 24 can direct him not to answer  
 25 questions but otherwise let me do it  
 FEVOLA REPORTING & TRANSCRIPTION INC. (631) 724-7576

1 R. Baumann  
 2 the way I'm doing it.  
 3 MR. MITCHELL: I will let you  
 4 and that's fine. Go right ahead.  
 5 MS. FREUDENBERGER: Can we mark  
 6 these.  
 7 (Whereupon, Plaintiff's  
 8 Exhibits 9 and 10 were marked for  
 9 identification.)  
 10 **Q** So, Mr. Baumann, take a look at  
 11 what's been marked Plaintiff's Exhibit 10  
 12 and I'll represent to you that this is a  
 13 supplemental report prepared by Detective  
 14 McCready in the investigation into the  
 15 Tankleff homicides.  
 16 I'm happy to give you as long  
 17 as you like to review this report if you  
 18 want; otherwise, I'm going to direct you to  
 19 the portion of this report that memorializes  
 20 the confession attributed to Marty Tankleff  
 21 in this case. It starts on Page 11.  
 22 MR. MITCHELL: Before you ask,  
 23 have you ever seen that document  
 24 before?  
 25 THE WITNESS: No, I have not.

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1 R. Baumann  
 2 MR. MITCHELL: Fine.  
 3 **Q** Okay. Do me a favor read to  
 4 yourself from the last paragraph on Page 11  
 5 through the end of the first paragraph on  
 6 Page 13 --  
 7 **A (Complying).**  
 8 **Q** -- then I'm going to direct  
 9 your attention to particular parts of this  
 10 document.  
 11 **A Okay.**  
 12 **Q** Now, Mr. Baumann, the paragraph  
 13 starting at the bottom of Page 11 and  
 14 concluding at the top of Page 12 describes  
 15 the attack on Arlene Tankleff as it's  
 16 memorialized in McCready's report and  
 17 Marty's confession, right?  
 18 MR. MITCHELL: I object to the  
 19 form. You can answer. The document  
 20 speaks for itself is what I'm  
 21 saying. Go ahead.  
 22 **A All right.**  
 23 **Q** And towards the bottom of that  
 24 paragraph it states, "he said he was afraid  
 25 his father would wake up and that after she

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1 R. Baumann  
 2 fell on the floor he ran and got a knife  
 3 from the kitchen and cut her throat. I  
 4 asked him where the knife was. He says the  
 5 knife was on the counter next to the  
 6 watermelon."  
 7 Now, according to Marty's  
 8 confession as McCready memorializes it,  
 9 Marty confessed to cutting his mother's  
 10 throat with a knife from the kitchen on the  
 11 counter next to the watermelon, correct?  
 12 MR. MITCHELL: I object to  
 13 form. You can answer.  
 14 **A That's what it says here.**  
 15 **Q** And you, in fact, collected  
 16 from the scene a knife next to a watermelon  
 17 in the kitchen, correct?  
 18 **A Yes.**  
 19 **Q** Before you even gathered that  
 20 knife, you noted visible material that --  
 21 You noted visible pinkish material on that  
 22 knife, correct?  
 23 **A Yes.**  
 24 **Q** And you subsequently ordered  
 25 testing on that material, right?

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1 R. Baumann  
 2 **A I removed it and brought it to**  
 3 **Histology.**  
 4 **Q** Tell us what Histology is?  
 5 **A They would mount material such**  
 6 **as tissue onto a slide and stain it to have**  
 7 **a pathologist look at it to try and identify**  
 8 **what it is.**  
 9 **Q** Is the reason that you had that  
 10 material sent to Histology because you  
 11 believed, based on your visual examination,  
 12 that it might have been human tissue?  
 13 **A I didn't know what it was, but**  
 14 **I brought it over there to see if they could**  
 15 **determine what it might be.**  
 16 **Q** And certainly one possibility  
 17 was that it may turn out to be human tissue,  
 18 correct, that's why you brought it to the  
 19 histologist?  
 20 **A Perhaps.**  
 21 MR. MITCHELL: Objection to  
 22 form. You can answer.  
 23 **Q** That was one possibility in  
 24 your mind?  
 25 **A I'm just covering my bases. I**

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R. Baumann

**don't know what it is. It's a pink piece of material. I'm going to bring it to Histology and let a doctor look at it to see if it looks like cellular material.**

**Q** In other words, you thought there was enough of a chance that it was human tissue to have a doctor examine it for cellular material, correct?

**A That's one possibility, yes.**

**Q** That was one possibility you believed at the time based on your visual exam of the knife, correct?

**A It was there, I removed it and I brought it to an area where I thought somebody could do further examination and get an answer as to what that was.**

**Q** If you had not thought there was a chance, it would turn out to be human tissue, you would not have sent it to Histology, correct?

MR. MITCHELL: Objection to form. You can answer.

**A If it was in my notes that there was some material, then the question**

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R. Baumann

**would have been why didn't you do it.**

**Q** Just to be clear, I'm not asking you if you were certain that this was human tissue. I'm just asking one possibility in your mind was that the pink material on the knife might have been human tissue?

MR. MITCHELL: Objection to form.

**A To cover that base that's why it was submitted.**

**Q** Okay. Can we agree to call that knife which was collected from the kitchen counter next to the watermelon the "watermelon knife"?

**A Sure.**

**Q** You subsequently conducted testing for blood on the watermelon knife, correct?

**A That's right, yes.**

**Q** Let's talk about how you tested that knife. Why don't you tell me what you did to test that knife.

**A Do you have any paperwork**

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R. Baumann

**regarding the examination of it?**

**Q** I do, Yes.

MS. FREUDENBERGER: Let's actually show Mr. Baumann his testimony about the knife.

We're going to go ahead and mark your trial testimony of Marty Tankleff's criminal trial in 1990.

(Whereupon, Plaintiff's Exhibit 11 was marked for identification.)

**Q** Mr. Baumann, I'm going to direct you to questions of you on cross by Marty's defense attorney starting on Page 2305. If you would just review Line 6 starting at 2305 up to line 20 on 2306.

**A From what page?**

**Q** 2305 and 2306.

**A (Complying.)**

**Okay.**

**Q** Does the testimony you just read accurately describe the testing for blood you conducted on the watermelon knife?

MR. MITCHELL: Objection to form. You can answer.

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R. Baumann

**A Yes.**

**Q** You actually disassembled that knife, correct?

**A Yes.**

**Q** And you performed a number of chemical tests on the knife?

**A Presumptive tests, yes.**

**Q** What were the results of this test?

**A That they were negative.**

**Q** Why did you take apart the knife?

**A I took apart that knife very likely because that became the knife that was indicated to have been used, so I disassembled it to look for any trace of blood that might be present.**

**Q** So you examined that knife particularly carefully because that was the knife that Marty Tankleff confessed to killing his mother with?

**A Yes, at some point that became, yes.**

**Q** Fair to say given that that was

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R. Baumann

the knife indicated in the confession you examined every possible surface of that knife looking for blood, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** As thoroughly as you knew how, correct?

**A Yes.**

**Q** You even took out the handle to examine for any possible traces of blood that could have been washed underneath, correct?

**A Yes.**

**Q** Okay. And even after completely disassembling the knife all of your tests for traces of blood were negative, right?

**A That's correct.**

**Q** You put a great deal of effort testing this knife; fair to say?

MR. MITCHELL: Objection.

**A No, I examined it. I took it apart and it was negative.**

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R. Baumann

**Q** Okay. And in your professional opinion, was there any blood present anywhere on that knife when you examined it?

MR. MITCHELL: Objection to form. You can answer.

**A No.**

**Q** One of the things I think you testified to at trial was that based on your expertise if blood is flowing over a knife or an object it tends to flow into crevices and cracks, correct?

MR. MITCHELL: Objection to form. You can answer.

**A It could.**

**Q** It often does, correct?

**A Sometimes. It depends where the blood is on the knife. It has the potential to, sure.**

**Q** Marty describes actually slitting his mother's throat with the knife, correct, in the confession that's the way he reports it?

MR. MITCHELL: Objection.

**A That's what the confession**

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R. Baumann

**seems to indicate, yes.**

**Q** And you saw Arlene Tankleff's body at the crime scene, correct?

**A Yes.**

**Q** There was huge amounts of blood, correct?

MR. MITCHELL: Objection.

**A Yes, there was.**

**Q** Okay. And as you say, when you examined the watermelon knife you found that there was no blood, correct?

**A Yes.**

MR. MITCHELL: Objection to form. You can answer.

**Q** Did the fact that there was no blood on the watermelon knife when you examined it indicate that perhaps the watermelon knife was not the weapon used to slit Arlene's throat?

MR. MITCHELL: Objection.

**A I'm not the one to determine what's used and not used. My findings were negative. That's more in the purview of the medical examiner perhaps to indicate what**

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**type of instrument was used if they are able to do that.**

**Q** So all I'm asking you, and I understand you were not in charge of the investigation, you were not calling the shots, but you've examined murder weapons throughout the course of your career, correct?

**A Yes.**

**Q** You've examined murder weapons taken from bloody crime scenes throughout the course of your career, correct?

**A Yes.**

**Q** Based on your experience examining murder weapons from bloody crime scenes throughout your career, does the fact that there was no blood on the knife Marty Tankleff allegedly confessed to using to kill his mother indicate to you that perhaps the watermelon knife was not the murder weapon?

MR. MITCHELL: I object to the form. You can answer.

**A I can't say one way or the**

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R. Baumann

**other. I get knives on a regular basis, some have blood, some do not. I still don't make a determination whether or not it could have been used in a crime. I don't know where they have been, you know. You know, I don't know the history of it so I examine it. I do the best I can and, you know, my results are what they are.**

**Q** I understand. And you understand you're not a Defendant in this lawsuit, correct?

MR. MITCHELL: I object to the form.

**A I feel like it sometimes. Yeah, I understand.**

**Q** No allegations of misconduct have been made against you, correct?

MR. MITCHELL: Objection to form. You can answer.

**A After reading what the investigators wrote, I start to wonder.**

**Q** You understand that the Tankleffs were, in fact, killed at some point on the morning of September 7th?

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R. Baumann

**A Yes.**

**Q** Okay. And you're at the crime scene approximately noon of September 7th?

**A Yes.**

**Q** And by the time you got to the crime scene numerous police and personnel, official personnel, were already there, right?

**A Yes.**

**Q** And you understand they got there very early that morning, right?

**A I believe so, yes.**

**Q** And so, unlike a crime scene where you are out in the open and there is a chance the scene has not been preserved, here the scene was -- first the scene was contained, right, it was in a house?

**A Yes.**

**Q** And personnel were on the scene very quickly after the bodies were found, right?

**A I would believe so.**

**Q** So, in fact, as compared to other crime scenes, you knew to a reasonable

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R. Baumann

degree of certainty that the knife was collected fairly quickly, right?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know what time that knife was collected. It would be on the evidence collection log. I believe we had done Arlene Tankleff's bedroom first before collecting other evidence in the house.**

**So, you know, by looking at the crime scene recovery sheet we can determine what time that was collected.**

**Q** Let me ask you this. Given what you read about how Marty confessed to killing his mother, would it surprise you based on your experience analyzing weapons from bloody crime scenes that there was no blood found on the watermelon knife?

MR. MITCHELL: Objection to form. You can answer.

**A Again, I don't know if that was the weapon, if it was another weapon. All I knew is when I examined it there was no trace of blood on it.**

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**Q** I understand. And let me be precise because I'm not asking you to make a determination as to if this is the weapon.

**A You can't compare one scene to another. The circumstances of scenes are different. You don't know where the knife has been.**

**Q** But here there is no reason to think that the knife was anywhere. There's no reason to think that if this knife was actually used to commit this crime that anybody had taken it out of the house and done something else with it, right?

MR. MITCHELL: Objection to form. You can answer.

**A It was in the middle of the kitchen sitting on a cutting board next to a watermelon. We ended up collecting it, examining it. There was nothing on it.**

**Q** Let me ask you this. Based on your experience analyzing bloody knives from crime scenes, would it surprise you if the knife were used in the manner Marty describes according to McCready's confession

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1 R. Baumann  
2 and no blood was detected anywhere on it  
3 through any of the tests you used?

4 MR. MITCHELL: I object to the  
5 form.

6 **A It might be used, it might not**  
7 **be used.**

8 **Q** I'm not asking you whether it  
9 was used, I'm asking you --

10 **A You mean looking at bloody**  
11 **knives?**

12 **Q** No, I'm asking you something  
13 different. What I'm asking you is if the  
14 knife was actually used in the manner  
15 described in the confession, would it  
16 surprise you not to find any particles of  
17 blood anywhere on the knife after  
18 disassembling it with any of the tests you  
19 used?

20 MR. MITCHELL: Objection to  
21 form. You can answer.

22 **A Nothing surprises me. It might**  
23 **have blood, it might not have blood. I'm**  
24 **not going to say one way or the other.**  
25 **Somebody gets their throat cut, is it just**

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1 R. Baumann  
2 **the blade that comes into contact or is it**  
3 **the whole knife? Is the whole knife soaked**  
4 **with blood? How tight is that knife made?**

5 **These are good quality knives.**  
6 **If somebody rinses them off pretty good --**  
7 **Like I say, our tests are sensitive, maybe**  
8 **one in 1000, maybe a little more than that.**

9 **In the limits of the detection**  
10 **that we have, I didn't detect anything. I'm**  
11 **not saying it was used or not used. All I'm**  
12 **saying is that I did what I could to see if**  
13 **there was blood on that knife and there's**  
14 **not. You can't say, well, based on your**  
15 **experience with any other knives. I can get**  
16 **something tomorrow that's totally different.**  
17 **You just don't know.**

18 **Q** In fact, you did everything you  
19 possibly could to detect blood on this  
20 knife, correct?

21 **A Yes.**

22 **Q** And you found none?

23 MR. MITCHELL: Objection.  
24 Asked and answered.

25 **Q** Let me ask you this. It sounds

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1 R. Baumann  
2 like what you're saying is you can't infer  
3 anything from the presence or absence of  
4 blood on this knife?

5 **A That's right.**

6 **Q** In that case, why test it?

7 MR. MITCHELL: Objection to  
8 form. You can answer.

9 **A I believe at some point in the**  
10 **investigation we became aware of the fact**  
11 **that this knife was used in the assault so**  
12 **we collected the knife along with other**  
13 **knives in the house.**

14 **We did not say we're going to**  
15 **focus on one knife. We took a number of**  
16 **knives from the house and I tested all of**  
17 **them. I didn't find blood on any of them,**  
18 **okay. So that's as far as I go. I'm not**  
19 **making a determination could this be the**  
20 **knife. It may be, it may not be. I don't**  
21 **know.**

22 **Q** Have you ever tested a murder  
23 weapon from a crime scene, approximately  
24 this bloody or bloodier, that also came back  
25 negative for the presence of blood?

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1 R. Baumann  
2 MR. MITCHELL: I object to  
3 form.

4 **A I may have.**

5 **Q** Can you remember specifically,  
6 as you sit here today, any case where you  
7 analyzed a weapon from a murder scene this  
8 bloody and failed to detect any blood on the  
9 weapon?

10 MR. MITCHELL: I object to the  
11 form.

12 **A That's tough to answer because**  
13 **there could be a time lapse. I don't know**  
14 **where a knife has been. I don't know if, in**  
15 **fact, the knife submitted has been involved**  
16 **in a murder. So if we get a knife and it's**  
17 **got blood on it, you know, they nab somebody**  
18 **who may have a folding knife in their**  
19 **pocket. I've seen it where it's had diluted**  
20 **blood and looking at it with a microscope**  
21 **you can see in the crevices that it has**  
22 **traces of blood, but sometimes I may have**  
23 **examined knives that could have been used in**  
24 **a very bloody murder that don't have blood**  
25 **on them. I don't know that.**

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**Q** Can you remember, as you sit here today, any case where you analyzed a murder weapon from a very bloody crime scene and did not detect any blood on that weapon?

MR. MITCHELL: Objection to form. You can answer.

**A I can't recall offhand.**

**Q** Okay. If you think of one as we're sitting here before the end of the deposition, let me know.

**A Okay.**

**Q** Let me ask you this. Are you willing to say that having read the description and the confession of how the murder or Arlene supposedly occurred that given that there was no blood detected anywhere on the knife even after you disassembled it with any of the tests you used that it is more likely that the watermelon knife was not used in this crime than there was?

MR. MITCHELL: Objection to form. You can answer.

**A I can't give you a probability**

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**or likelihood of whether it was more likely to be used or less likely to be used.**

**Q** So the fact that you found no blood at all on the watermelon knife, in your opinion, tells you nothing?

MR. MITCHELL: Objection to form. You can answer.

**A It does not tell me whether it's the murder weapon or not.**

**Q** What does it tell you?

**A There is no blood on that knife.**

**Q** What does the fact that there was no blood found anywhere on that knife tell you?

MR. MITCHELL: Objection to form. You can answer.

**A That there was no blood on the knife, that's what it tells me, plain and simple.**

**Q** So in your opinion your test on the watermelon knife was meaningless?

MR. MITCHELL: I object.

**A It answers the question whether**

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R. Baumann

**there was blood on the knife or not, so whether that's meaningless or not it's up to the reader of the report, I suppose.**

**Q** Back in '88 when you tested the knife, when you disassembled it and you examined it and applied various chemicals to it and you failed to find any blood at all, did it cause you in your own mind -- I'm not asking you what the significance in the context of the investigation, I'm asking you whether it caused you in your own mind to question whether maybe this was not the murder weapon?

MR. MITCHELL: Objection to form. You can answer.

**A Not really.**

**Q** Why not?

MR. MITCHELL: Objection to the form. You can answer.

**A I didn't think too much about it. We looked over the course of two days for any potential sharp objects that may have been used, not just those knives but other knives, okay, so sometimes they're**

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**left behind, sometimes they are not. So the knives that we did take I tested and they were all found to be negative. I don't make a determination on could this have been the knife, could it not have been the knife. It may very well may not have been, but again, it may have been. I don't know.**

**Q** And one reason you say it may very well not have been is because you did not find any blood on it, correct?

MR. MITCHELL: Objection to form. You can answer.

**A I was not at the scene. Well, you know, I was not there when it happened so I can't tell you whether or not the knife was present or absent at the scene. Sometimes people will bring a weapon, sometimes they will use something out of convenience that's there. I can't tell you. All I can tell you is we took a number of knives. They were all tested, they were all negative.**

**Q** If you had found blood on the knife, if you had found Arlene Tankleff's

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1 R. Baumann  
2 blood on the knife, would that have  
3 indicated to you that the knife was likely  
4 the murder weapon?  
5 MR. MITCHELL: Objection to  
6 form. You can answer.  
7 **A That would depend where on the**  
8 **knife. If it was a contact pattern versus a**  
9 **different type of pattern along the edge,**  
10 **perhaps.**  
11 **Q** So even if you --  
12 **A If she was cut, maybe somebody**  
13 **picked up the knife, you know, and it's just**  
14 **on the handle rather than the blade, that**  
15 **might indicate a different kind of scenario.**  
16 **Q** Even if you found Arlene  
17 Tankleff's blood on the knife, depending on  
18 where it was on the knife, that may not have  
19 told you that it would be sufficient to make  
20 you think the knife was the murder weapon;  
21 is that what you're saying?  
22 MR. MITCHELL: Objection to  
23 form. You can answer.  
24 **A Yes.**  
25 **Q** So really the presence or  
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1 R. Baumann  
2 absence of blood on a murder weapon does not  
3 tell you anything?  
4 MR. MITCHELL: Objection to  
5 form. You can answer.  
6 **A No.**  
7 **Q** Okay. And you're not willing  
8 to say whether the complete absence of  
9 Arlene Tankleff's blood, of any blood on  
10 that watermelon knife after you disassembled  
11 it and applied various tests to it made it  
12 more probable or less probable that the  
13 knife was used in the crime?  
14 MR. MITCHELL: Objection to  
15 form. You can answer.  
16 **A I can't say that.**  
17 **Q** Okay. And certainly you  
18 reported your findings that there was no  
19 blood anywhere on the knife to the  
20 detectives in charge of this investigation?  
21 **A It was in my preliminary**  
22 **report, I'm sure. If we can find that...**  
23 **Q** Did you come to learn from any  
24 source at any time that there were questions  
25 among the homicide detectives on this case  
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1 R. Baumann  
2 about whether the watermelon knife had been  
3 used in this crime?  
4 MR. MITCHELL: Objection to  
5 form. You can answer.  
6 **A I was not aware of that.**  
7 **Q** You never heard anybody express  
8 that concern?  
9 MR. MITCHELL: Objection to  
10 form. You can answer.  
11 **A No.**  
12 **Q** Let's show him the diagram.  
13 Now, you also, Mr. Baumann,  
14 tested barbells recovered from Marty  
15 Tankleff's room for the presence of blood?  
16 **A Yes.**  
17 **Q** You mentioned earlier that some  
18 things you collected because you received  
19 information from the detectives at the scene  
20 and some things you collected because they  
21 were obvious walking through the house,  
22 correct?  
23 **A That's correct.**  
24 **Q** And I think you also testified  
25 that there were some reddish stains on the  
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1 R. Baumann  
2 barbells that were visible just standing in  
3 Marty's room?  
4 **A Reddish. Maybe reddish brown,**  
5 **maybe rust color. Sometimes rust may look**  
6 **like blood.**  
7 **Q** You can see the barbells with  
8 some kind of reddish brown substance on it,  
9 correct?  
10 **A I don't think that was apparent**  
11 **right away.**  
12 **Q** Do you know one way or the  
13 other?  
14 **A I don't recall zeroing in**  
15 **saying, hey, there is something that looks**  
16 **like blood, certainly not.**  
17 **Q** You're certain you did not or  
18 might you have seen the rust-colored  
19 substance on the barbells right away and you  
20 just don't remember one way or the other?  
21 MR. MITCHELL: Objection to  
22 form. You can answer.  
23 **A I examined those at the lab.**  
24 **Q** When you walked into the crime  
25 scene, the barbells themselves you saw right  
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away, correct?

**A I don't recall. I don't recall if -- I mean they were in his room. I do know that. Whether we saw those right away or not, I don't know.**

**Q** You don't recall one way or the other, okay. At some point, you collected the barbells and brought them back to the crime lab, correct?

**A That's right.**

**Q** And you analyzed them for the presence of blood, right?

**A Yes.**

**Q** Like the watermelon knife, you completely disassembled the barbells, right?

**A Yes, I believe I did.**

**Q** Did you see reference to your testing on the barbells when you reviewed your trial testimony in the last couple of days?

**A I may have.**

**Q** Okay. Do you recall that you were not able to manually loosen the collar on the barbell, you had to use a pair of

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right?

**A Yes.**

**Q** Just to be precise, you did not just look at the barbells, you also looked at the screws and the bolts and bolt holes? You tested everything for the presence of blood, right?

**A Yes.**

MS. FREUDENBERGER: Let's mark this picture as 12.

(Whereupon, Plaintiff's Exhibit 12 was marked for identification.)

**Q** Mr. Baumann, take a look at what's been marked number 12, if you would?

**A Yes.**

**Q** Are these the barbells as they appeared to you when you walked into Marty Tankleff's room on the morning of September 7th?

**A I believe so.**

**Q** And do you see the reddish-brown material in this picture?

**A This is it on the end?**

**Q** It looks to me like there is a

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pliers?

**A Yes, I remember that.**

**Q** And you did do that, right? You took the barbells completely apart?

**A Yes.**

**Q** You even took the screws out of the collar, right?

**A I believe so. That's what it says in my transcript. I believe so.**

**Q** So like the watermelon knife you tested the barbells for the presence of blood as thoroughly and completely as you knew how, correct?

**A Yes.**

**Q** And you found no blood anywhere on the barbells, correct?

**A I did not.**

**Q** And, in fact, the rust-colored or reddish-brown substance you observed on the barbells turned out not to be blood, right?

**A That's right.**

**Q** The barbells were a piece of evidence you used the stereo microscope on,

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reddish-brown substance on the end of the barbell. Is that the red-brownish substance that you observed in Marty Tankleff's room on September 7th?

MR. MITCHELL: I object to the form. You can answer.

**A I suppose so.**

**Q** Okay. And does this picture refresh your recollection that, in fact, you were able to see the reddish-brown substance on the barbells when you entered Mr. Tankleff's room on September 7th?

MR. MITCHELL: Objection to form. You can answer.

**A It appears to be on the end, yes.**

**Q** So you were able to see the reddish-brown substance with the naked eye when you walked into Marty Tankleff's room on the morning of September 7, 1988, right?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** Mr. Baumann --

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1 R. Baumann  
2 MS. FREUDENBERGER: Brian, you  
3 can't do that. What are you doing?  
4 MR. MITCHELL: It's not about  
5 the question. I'm asking a question  
6 about the exhibit.  
7 MS. FREUDENBERGER: Brian, you  
8 can't stop a deposition to confer  
9 with your client.  
10 MR. MITCHELL: I'm not asking  
11 about a question you asked. He's my  
12 client, I'm asking him a question.  
13 MS. FREUDENBERGER: You can  
14 question him at the end.  
15 MR. MITCHELL: I'm not advising  
16 him how to answer.  
17 MS. FREUDENBERGER: Not at a  
18 deposition.  
19 MR. MITCHELL: Fine. Go ahead.  
20 Go ahead. Let me know when you feel  
21 it's an appropriate time to take a  
22 break.  
23 MS. FREUDENBERGER: Let me  
24 finish this line of questioning and  
25 we'll take a break.

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1 R. Baumann  
2 **Q** Mr. Baumann, does the fact that  
3 you completely disassembled the barbells and  
4 examined them using a stereo microscope and  
5 various chemical tests tell you anything  
6 about the likelihood of the barbells being  
7 used as a murder weapon?  
8 MR. MITCHELL: Objection to  
9 form. You can answer.  
10 **A It does not tell me the**  
11 **likelihood of them being used or not used,**  
12 **it tells me there is no blood on the**  
13 **evidence present that I examined.**  
14 **Q** Okay. You mentioned earlier  
15 that you tested other knives collected from  
16 the house in addition to the watermelon  
17 knife, correct?  
18 **A Yes.**  
19 **Q** Okay. Did you test those  
20 knives -- Well, did you disassemble any  
21 knives other than the watermelon knife?  
22 MR. MITCHELL: Objection to  
23 form. You can answer.  
24 **A I don't recall.**  
25 **Q** Okay. Do you have any doubt

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1 R. Baumann  
2 that you tested all of the knives which you  
3 tested in the house as thoroughly and  
4 comprehensively as possible for the presence  
5 of blood?  
6 **A Yes.**  
7 **Q** Are you confident, as you sit  
8 here today, that you tested all the knives  
9 at the house collected from the Tankleff  
10 house as thoroughly and comprehensively for  
11 the presence of blood as you knew how?  
12 **A I'm confident that there was no**  
13 **blood on those knives.**  
14 **Q** On any of the knives recovered  
15 from the Tankleff house?  
16 **A That I examined.**  
17 **Q** That you examined?  
18 **A Yes.**  
19 **Q** Including the watermelon knife,  
20 correct?  
21 **A Including that knife, yes.**  
22 **Q** You also tested all the hammers  
23 that had been collected from the house,  
24 correct?  
25 **A Two hammers.**

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1 R. Baumann  
2 **Q** To your knowledge, were any  
3 hammers collected from the Tankleff home  
4 that you did not test for the presence of  
5 blood?  
6 **A Not to my knowledge, no.**  
7 **Q** Would there have been any  
8 reason not to have you test all of the  
9 hammers collected from the house if two were  
10 collected?  
11 **A They were the only two I was**  
12 **aware of.**  
13 **Q** And you tested them  
14 comprehensively and thoroughly for the  
15 presence of blood, correct?  
16 **A That's correct.**  
17 **Q** And no blood was found on any  
18 of the hammers that you collected from the  
19 house, right?  
20 **A That's right.**  
21 **Q** Okay.  
22 MS. FREUDENBERGER: Now would  
23 be a good time to take a break.  
24 MR. MITCHELL: Okay. I only  
25 need five minutes.

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R. Baumann

(At this time, a brief recess was taken.)

**Q** Mr. Baumann, you also tested all of the drains and traps from the Tankleff home for the presence of blood, correct?

**A Yes.**

**Q** That included the drains and traps in Marty Tankleff's bathroom, correct?

**A Yes.**

**Q** You did not just test the drains and traps, you examined the grout in Marty's bathroom, correct?

**A I don't remember.**

**Q** All right. I can show you your trial testimony.

**A Okay.**

**Q** Take a look at what's been marked Plaintiff's Exhibit 11. Take a look at Page 2324 of your trial testimony.

**A Okay.**

**Q** At the bottom of Page 2324, line 23.

"Q. What about in the bathtub?

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R. Baumann

Let's go back to the bathroom between Marty's room and the master bedroom. Did you look in and around the crevices in the bathtub, and, you know, where the grouting is. Did you look carefully at that?

**A Yes.**

**Q** Did you see any traces of blood?

**A No."**

Does that testimony refresh your recollection that you examined the grout in Marty's bathroom for the presence of blood and did not find any?

**A You just answered your question.**

**Q** My question is, does this testimony refresh your recollection that you examined the grout in Marty Tankleff's bathroom and found no presence of blood?

**A I testified to it, yes.**

**Q** Does your testimony refresh your recollection that that, in fact, is the case?

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**A It doesn't. Twenty-five years ago, I don't really recall it but --**

**Q** Fair enough. Do you have any doubt --

**A It's been a couple of years at this point but --**

**Q** Do you have any doubt that --

**A -- I'm sure we looked close.**

**Q** Do you have any doubt given this testimony that you did, in fact, examine the grout in Marty's bathroom and saw no blood?

**A I'm sure we looked in the corners of the tub, all along --**

**Q** In other words, you're sure you looked everywhere in Marty's bathroom and found no blood?

**A That's correct.**

**Q** And you collected the towels in Marty's bathroom, and I believe your words were "very dry," correct?

**A I don't recall but if that is in the transcript then my recollection at the time is that they were dry.**

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**Q** Okay.

**A At this point, I don't recall.**

**Q** Okay.

MR. MITCHELL: You have any reason to believe that your testimony at trial was incorrect?

THE WITNESS: No.

MR. MITCHELL: Okay.

**Q** Let me redo this testimony.

On Page 2223, this is direct.

The prosecution is questioning you here.

**A Yes.**

**Q** I'll represent to you he is questioning you about the drain stopper in Marty's shower.

By the way, do you remember that Mr. Tankleff's shower was a bathtub shower. In other words, it was a bathtub with a showerhead affixed rather than a stand-up shower?

**A I don't recall.**

**Q** Okay. Well, you don't dispute that there was a drain with a drain stopper in the shower?

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**A I remember seeing the drain stopper. I remember seeing a sketch of it.**

**Q** This is the prosecutor questioning you about your testing of the drain stopper.

"Q. Will you tell us about your examination, please.

A. Okay. The drain stopper is removed from the bathroom. Numerous hairs with red and pink bits of material were embedded within it, particularly on the hinge areas. These bits of materials under the stereomicroscope were red fibers.

Q. Did they appear to be consistent with having come from the red towels?

A. I don't know.

Q. Did you test for blood?

A. No blood was detected on it. There didn't appear to be any bits of human tissue or -- and the bottom of the stopper was corroded green and had a soapy residue coating.

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Q. Did you perform a catalytic test on that?

A. Yes.

Q. What were the results of the catalytic test?

A. Everything on that drain stopper was negative for the presence of blood."

Mr. Baumann, do you have any reason to believe, as you sit here today, that anything about that testimony is inaccurate?

**A No.**

**Q** Okay. Given that there were hairs and fibers on the hinge area of the drain and the bottom of the drain was corroded green and covered in soapy residue, would that make it more or less likely that had blood recently passed through that drain blood would be detected somewhere in the traps around the drain?

MR. MITCHELL: Objection to form. You can answer.

**A I didn't detect any blood on it. I don't know that it would make it any**

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R. Baumann

**more likely or less likely, but there was no blood on anything that I tested on there. Nothing looked out of the ordinary.**

**Q** So it's no more likely that you would find blood in a corroded soapy drain with fibers and hair attached to it than on a perfectly clean brand new drain?

MR. MITCHELL: Objection to form. You can answer.

**A I would not assign likelihood but there was no blood associated with what I did examine.**

**Q** I'm not asking you to assign a likelihood or percentage, I'm asking you whether you are willing to say that it's more likely that blood would be found on a drain that is corroded and soapy residue and fibers on it than a brand new spanking clean drain?

MR. MITCHELL: Objection to form. You can answer.

**A I have not done that comparison. I could not give you an answer.**

**Q** But you've examined thousands

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of items for the presence of blood over the course of your career, correct?

**A Not drains like this, no.**

**Q** Okay. But a number of different kinds of items, correct?

**A Yes.**

**Q** And in your experience is it more likely to find blood when there are fibers, particles and residue for the blood to cling to than when you're just talking about metal and water or is there no difference whatsoever?

MR. MITCHELL: Objection to form. You can answer.

**A That's a hypothetical --**

**Q** It is hypothetical.

**A -- and I don't know what the answer to that is. I really don't break things down into those categories. I test whether it's present or not. I don't say well, there is nothing on this or there is fibers on it. So, you know, I can't give you an answer on that, that it's more or less likely that it would have blood on it.**

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**Q** Let me ask you about what you do do. I only want to ask you about what you do and what you know.

You test all kinds of different things from crime scenes for the presence of blood, correct?

**A Yes.**

**Q** All sorts of different items, right?

**A Yes.**

**Q** Different surfaces, different materials?

**A Yes.**

**Q** In your experience, is it any more likely that an item -- Let's break it down even more.

When blood cells diluted in water come into contact with an item sometimes they, using layman's terms, sometimes they linger on the items and sometimes they just get washed away, correct?

**A Depends on the environmental exposure of the item, yeah.**

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R. Baumann

**Q** Let's not talk about environmental exposure. Earlier you used the exposure of the knife, the watermelon knife. You told me that even the presence of Arlene Tankleff's blood might not tell you anything about whether that weapon was used in a crime if the blood was only found on the handle, right?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** You also said that maybe the knife, if only the blade was used to cut her neck, maybe that's the explanation as to why there was no blood found on the knife, right?

MR. MITCHELL: Objection to form. You can answer.

**Q** Did I misunderstand you?

**A Yeah, that's fine. If there was just blood on the blade, then maybe it might have been used as a weapon?**

**Q** In other words, it's easier to wash blood off a blade completely than it is

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to wash blood off wood, right?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know. You know, it depends. That would depend how porous is the wood. It depends on the surface.**

**Q** So the surface of an item affects the likelihood of blood clinging to that item, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Yes, if you have a garment that's going to absorb blood and you have blood that ends up on something like this, it would be easier to wash blood off this than it would a garment where it would be more absorbant.**

**Q** For the record, you're holding up a plastic fork, correct?

**A Yes.**

**Q** That's because a garment is more absorbant and more porous than a plastic fork?

**A In general, yes.**

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**Q** Are you willing to say that it's easier to wipe blood off a clean metal drain than a drain covered in fibers and soapy residue?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know if I like the way that question is posed.**

**Q** Can you answer that question; yes or no?

**A No, I can't really answer it yes or no.**

**Q** Why is that?

**A Why is that? Because it's still metal and it may be pitted and if blood is liquid and it's got water running past it, it may not appear.**

**I have not done a comparison. You're talking variables. You talking different -- You can't just say compare a plastic fork and an absorbant cloth. Say now, we're talking about a clean drain versus a dirty drain --**

**Q** You can't do that?

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R. Baumann

**A No, I can't.**

**Q** If you had two identical drains and one was out of the box from Home Depot and the other had soapy residue and fibers all over it, are you not willing to say that you're more likely to find blood on the drain with soapy residue and fibers on it than a brand new clean right-out-of-the-box drain?

**A I would have to test them before I could give you that answer.**

**Q** You can't say based on your experience analyzing, testing on all kinds of objects from crime scenes for the presence of blood, that you are more likely to find blood on the drain of a soapy residue and fiber than on a brand new clean metal drain?

**A No, not in the example that you're giving me. Not without testing.**

**Q** Here you did test it, right?

**A Yes.**

**Q** Here you tested a soapy drain with soapy residue and fibers embedded in

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R. Baumann

it, right?

**A Yes.**

**Q** And no blood anywhere. You were not able to find blood anywhere, right?

MR. MITCHELL: Objection to form. You can answer.

**A That's correct.**

MS. FREUDENBERGER: Okay, Brian?

MR. MITCHELL: It's the third time you asked that question.

MS. FREUDENBERGER: It is, you're right.

**Q** In fact, you examined Marty's bathroom as thoroughly and comprehensively for the presence of blood as you knew how, correct?

**A Yes.**

**Q** And again, like the watermelon knife and like the barbells, you found no blood whatsoever, correct?

**A That's correct.**

**Q** There was no blood present anywhere in Marty's Tankleff's bathroom?

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MR. MITCHELL: Objection to form. You can answer.

**A No.**

**Q** Mr. Baumann, take a look back at McCready's supplemental report with the confession. Do you still have that in front of you?

**A I don't.**

MR. MITCHELL: (Hanging.)

**Q** Take a look at the bottom of McCready's report on the confession again.

**A Page?**

**Q** Page 11.

**A Okay.**

**Q** "We then asked him what time he did this. He said he set his alarm clock for 5:35 When it went off, he woke up."

According to McCready's report of Marty's confession he confessed to waking up at 5:35 that morning, correct?

MR. MITCHELL: Objection to form. You can answer.

**A He said he set his alarm for 5:35, when it went off he woke up, that's**

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R. Baumann

**what it says.**

**Q** That's what the confession says and in the confession he goes on to then kill his parents, right?

**A Yes.**

**Q** So according to the confession Marty kills his parents after 5:35 in the morning, right?

MR. MITCHELL: Objection to form. You can answer.

**A Yes, it appears to be, yes.**

MS. FREUDENBERGER: Let's mark this report.

(Whereupon, Plaintiff's Exhibits 13 and 14 were marked for identification.)

**Q** Take look at the bottom of Page 2 on Plaintiff's Exhibit 14, at the very bottom of Page 2. You're welcome to read the report if you'd like. I will represent to you that they are talking about the ambulance crew sent out to the Tankleff house.

**A Yes.**

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R. Baumann

**Q** It says at the very bottom that the crew was dispatched to 33 Seaside Drive, Belle Terre at 6:11 hours. So the EMTs are sent out to the Tankleff house at 6:11.

According to you -- And you have no reason to dispute the time that the EMTs were dispatched to the house that morning?

MR. MITCHELL: Objection to form. You can answer.

**A I have no opinion one way or the other.**

**Q** So taking it as true that the EMTs were, in fact, sent to the Tankleff house at 6:11, for the confession to be true Marty Tankleff would have had to wake up at 5:35, and between 5:35 and 6:11 bludgeoned his mother. We can go through it step by step if you're more comfortable doing it that way, but let me try it this way.

For the confession to be true, Marty Tankleff would have had to, starting at 5:35 in the morning, bludgeoned his mother. He describes the struggle with his

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no blood is found anywhere on the knife or anywhere on the barbell, replace his wet towels with dry towels and cut off a slice of watermelon, put the knife back on the counter and replace the barbells by 6:11 the next morning; would you agree with that?

MR. MITCHELL: Objection to form. You can answer.

I'll allow him to answer the question and how in the world is his answer to that question from this witness have any relevance to this case?

MS. FREUDENBERGER: I just want to make sure he understands and that he agrees that that's what was reported in the confession.

MR. MITCHELL: Who cares?

MS. FREUDENBERGER: Because I'm going to ask him questions about --

MR. MITCHELL: Why don't we ask Dolly? Why don't we ask my secretary.

I object to the form. You can

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R. Baumann

mother, which he hits her repeatedly on the side of the head. She falls to the floor, go back to the kitchen, get a watermelon knife, come back to his mother's body, slit her throat, take the barbells and the knife, go down the hall to his father's office -- And by the way, you were in the Tankleff's home, correct?

**A Yes.**

**Q** Approximately how far was the distance between the office and the bedroom?

**A I don't recall how far, but they were on opposite ends of a long ranch.**

**Q** So walk down the hall to the opposite end of the long ranch house, bludgeon his father, hit his father repeatedly on the back of the head. I believe the phrase is "knocked him silly," cut his father's throat, take those weapons, after bludgeoning his mother and father and slitting both of their throats, walk all the way back across the house again to his bathroom, clean off the barbells and the knife in the shower thoroughly enough that

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answer.

Can you do math? You woke up at 5-whatever and they came at 6:11?

I'll stipulate to whatever that timeframe is and I'll stipulate that all the things you said, according to your question, I will stipulate what had happened between when that happened and it happened.

I just don't know why we're spending time asking him a question like that.

I object to the form. You can answer.

**A So in 36 minutes?**

**Q** Correct.

**A So what do you want me to --**

**Q** You understand that for Marty Tankleff -- Let's talk specifically about the knife and barbells.

First of all, for Marty Tankleff to have gotten the knife clean enough that you were not able to detect any blood on it, he would have had to

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1 R. Baumann  
2 disassemble the knife too?  
3 MR. MITCHELL: Objection to  
4 form. You can answer.  
5 **A Not necessarily. If it's a**  
6 **well-made knife, it could be that blood does**  
7 **not get into the interior of a knife. But**  
8 **either way there was no blood detected on**  
9 **the knife.**  
10 **Q** Okay. So you don't think he  
11 would have necessarily have disassembled the  
12 knife to prevent you from finding any blood  
13 on the knife?  
14 **A Knives are not easy to**  
15 **disassemble. It's unlikely he disassembled**  
16 **the knife.**  
17 **Q** Is it unlikely he disassembled  
18 the knife because he -- It sounds like what  
19 you're saying is the unlikelihood he  
20 disassembled the knife given how hard it is  
21 to disassemble a knife he would not have had  
22 time?  
23 MR. MITCHELL: Objection to  
24 form. You can answer.  
25 **A Yeah, that's probably one**  
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1 R. Baumann  
2 **factor.**  
3 **Q** How long did that take you to  
4 disassemble the watermelon knife?  
5 **A I don't recall, but I know when**  
6 **I disassembled knives before it takes a bit**  
7 **of doing. It's not just one, two, three.**  
8 **Q** So based on your experience  
9 disassembling knives, which I gather you've  
10 done many times during the course of your  
11 career --  
12 **A I've done sometimes.**  
13 **Q** -- it would not have been  
14 possible for Marty Tankleff to do everything  
15 described in the confession and disassemble  
16 the knife in the 36 minutes he had, correct?  
17 MR. MITCHELL: Objection to  
18 form. You can answer.  
19 Your hypothetical assumes that  
20 he disassembled the knife, correct?  
21 MS. FREUDENBERGER: No. Would  
22 you repeat the question.  
23 (Whereupon, the requested  
24 portion was read back by the court  
25 reporter.)  
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1 R. Baumann  
2 MR. MITCHELL: So within that  
3 hypothetical you're saying that he  
4 did this --  
5 MS. FRUEDENBERGER: I'm not.  
6 Let me rephrase the question.  
7 **Q** Based on your experience  
8 disassembling knives throughout the course  
9 of your career, would you agree that Marty  
10 Tankleff did not have time in 36 minutes to  
11 do everything described in the confession  
12 and disassemble and then reassemble the  
13 watermelon knife?  
14 MR. MITCHELL: Objection to  
15 form. You can answer.  
16 **A That knife was not disassembled**  
17 **before I got it.**  
18 **Q** Okay. That was clear to you  
19 when you disassembled it?  
20 **A Yes.**  
21 **Q** How long did it take to  
22 disassemble the barbell?  
23 **A I don't think it was very long.**  
24 **It's just one nut to take off the sleeve.**  
25 **It was just sitting over the bar.**  
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1 R. Baumann  
2 **Q** You had used pliers to  
3 disassemble, right?  
4 **A Yes, because typically on those**  
5 **barbells like that you have a square nut so**  
6 **you just get a pair of pliers and just give**  
7 **a nudge and took it off.**  
8 **Q** Would Marty Tankleff have had  
9 time to do everything described in the  
10 confession; disassemble the barbell, clean  
11 and reassemble it and tighten it to the  
12 condition you found it in within 36 minutes?  
13 MR. MITCHELL: Objection to  
14 form. You can answer.  
15 **A I don't know. I didn't time,**  
16 **you know, events from beginning to end so**  
17 **I'm not in a position to make a judgement on**  
18 **that.**  
19 **Q** Would you agree that it's  
20 unlikely that Marty Tankleff would have time  
21 to do everything described in the  
22 confession; disassemble, clean it thoroughly  
23 enough that he got every swab of blood off  
24 the nuts and screws and the barbell and then  
25 reattach it so effectively that you had to  
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1 R. Baumann  
2 use pliers to get it off in the 36 minutes  
3 he had?

4 MR. MITCHELL: Objection to  
5 form. You can answer.

6 **A I don't know. I don't know**  
7 **what the answer to that is.**

8 **Q** Would you agree that that's  
9 unlikely?

10 MR. MITCHELL: Objection to  
11 form. You can answer.

12 **A I don't know.**

13 **Q** You can't say that's unlikely?

14 MR. MITCHELL: Objection to  
15 form. You can answer.

16 **A Short of having somebody**  
17 **reconstruct those events, I don't know what**  
18 **the answer to that would be. I suppose**  
19 **getting somebody who knows what the scenario**  
20 **is, run through it to see if they could do**  
21 **it in 36 minutes, would probably give you a**  
22 **better answer to that, but I don't know what**  
23 **the answer to that is.**

24 **Q** Was that ever done to your  
25 knowledge?

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1 R. Baumann  
2 **A No, to my knowledge, I don't**  
3 **know that it was done.**

4 **Q** Okay. Did anybody ever come to  
5 you and ask you whether you believe that the  
6 knife or barbell was disassembled before you  
7 got it?

8 MR. MITCHELL: Objection to  
9 form. You can answer.

10 **A No.**

11 **Q** Okay. If anybody had come to  
12 you and asked you whether the knife had been  
13 disassembled before you got it, would you  
14 have told them as you told me here today  
15 that it had not been, correct?

16 **A That's correct.**

17 **Q** Okay. By the way, you were  
18 available and willing to answer any  
19 questions anybody had for you about any of  
20 your testing, correct?

21 **A That's correct.**

22 **Q** Okay. You would have been  
23 happy to do so, correct?

24 **A Sure.**

25 **Q** You wanted to help in this

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1 R. Baumann  
2 investigation in any way you could, correct?

3 **A I have nothing to hide.**

4 **Q** I'm asking you something a  
5 little different.

6 At the time of the  
7 investigation, you wanted to help apprehend  
8 the perpetrators of these crimes as best you  
9 could, correct?

10 MR. MITCHELL: Objection to  
11 form. You can answer.

12 **A The objective is to find out**  
13 **who the perpetrator was by examining the**  
14 **evidence. So whatever I did in this case,**  
15 **you know, cards fall where they will.**

16 **Q** I'm not sure I understand that.  
17 Can you explain?

18 **A My testing, what my results are**  
19 **using the different blood types of the**  
20 **individuals whose blood was tested, you**  
21 **know, I'm able to discern among who may have**  
22 **been the sources of blood and who may not**  
23 **have, and in some cases, you know, it came**  
24 **down to a person, A or B or a person A, B or**  
25 **C. That was the limitation of the**

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1 R. Baumann  
2 **technology back then so, you know, where**  
3 **maybe I think one of them was one of the**  
4 **genetic markers, maybe 90 percent of the**  
5 **population would share that genetic marker,**  
6 **but based on the size of the stain that's as**  
7 **far as I could take it.**

8 **Q** Let me stop you because I'm  
9 going to ask you some questions about the  
10 blood typing that you did in this case.

11 **A Okay.**

12 **Q** Before I do, though, you  
13 examined the hallway between Marty's bedroom  
14 and Seymour Tankleff's office for the  
15 presence of blood, correct?

16 **A Yes.**

17 **Q** And you found no blood in the  
18 hallway, correct?

19 **A We did not observe any, no.**

20 **Q** And that area was covered in  
21 white carpet, right?

22 **A I don't recall.**

23 **Q** Some kind of white-colored  
24 carpet?

25 **A I don't recall.**

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MR. MITCHELL: Objection to form. You can answer.

**A I don't recall without looking at photos.**

**Q** Regardless, you found no blood between Marty's bedroom and the office, correct?

**A That's right.**

**Q** Did you do that examination carefully?

**A Yes.**

**Q** As thoroughly as you knew how?

**A Yes.**

**Q** And you found nothing?

**A Found nothing.**

**Q** By the way, you also did a presumptive test for blood on the doorknob on the outside of Marty Tankleff's door, right?

**A Yes.**

**Q** And you did, in fact, detect blood on the outside of Marty Tankleff's door?

**A Presumptive testing indicated**

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R. Baumann

**the presence of blood, yes.**

**Q** Does that tell you that there was blood present?

**A It indicates that blood may have been present, yes.**

**Q** Why didn't you do any confirmatory tests?

**A I don't recall. I don't know if we collected that as an item or that may have been consumed in analysis.**

**Q** If somebody asked you to do confirmatory testing to confirm that there was blood on the doorknob on the outside of Marty's door, you would have done so, correct?

MR. MITCHELL: Objection to form. You can answer.

**A If there was sufficient quantities.**

**Q** Do you have any reason to think, as you sit here today, that there was not sufficient quantify to do that testing?

MR. MITCHELL: I Object to the form. You can answer.

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R. Baumann

**A I don't recall the actual appearance of this stain, if there was a stain or if I had just done a swabbing of the doorknob and tested it, so I don't recall.**

**Q** In other words, you don't know one way or the other whether there was enough blood to do confirmatory testing?

**A Right. It may have been a blind swabbing. And I do recall seeing in the notes that a possible presumptive test was obtained.**

**Q** You performed genetic marker analysis on a number of bloodstains in both Seymour Tankleff's office and Arlene's master bedroom, correct?

**A Yes.**

**Q** All of the stains you tested from Seymour Tankleff's office were consistent with Seymour Tankleff's blood type and excluded Marty and Arlene Tankleff, correct?

**A If that's what my report says, that's correct.**

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MR. MITCHELL: Objection to form. You can answer.

**Q** And you also tested a number of stains from the master bedroom, correct?

**A Yes.**

**Q** And the master bedroom where Arlene Tankleff was killed, right?

**A That's right.**

**Q** In contrast to the office where you only found Seymour Tankleff's blood, and none of Arlene's blood you, in fact found at least two stains of Seymour Tankleff's blood in the master bedroom, correct?

**A If my report indicates that, then that is correct.**

**Q** Let's look at your report.

**A It should be in the back under conclusions.**

**Q** Let's take a look at your report previously marked as Plaintiff's Exhibit 2.

MS. FREUDENBERGER: Let's mark this.

(Whereupon, Plaintiff's Exhibit

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1 R. Baumann  
2 15 was marked for identification.)  
3 Q Take a look at Page 15 of your  
4 report.

5 A Yes.

6 Q By the way, at the top of your  
7 report it says there are a number of  
8 preprinted fields one of which is "submitted  
9 by"?

10 A Yes.

11 Q And it says for Detective James  
12 McCready, correct?

13 A Yes.

14 Q McCready was the lead detective  
15 on this investigation, right?

16 A Yes.

17 Q You understood that all of your  
18 results were being filed to Detective  
19 McCready?

20 A I believe so, yes.

21 MR. MITCHELL: Objection.

22 Q McCready was a very experienced  
23 homicide detective at the time, right?

24 A I suppose. I don't know. I  
25 did not work with him.

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1 R. Baumann  
2 Q You had not worked with him  
3 before?

4 A I don't know. Maybe I did on a  
5 case, maybe I didn't. I have no idea.

6 Q So at the bottom of the page do  
7 you see under your final conclusions the  
8 heading on the page?

9 A Yes.

10 Q It says -- It lists a number of  
11 bloodstains on items which you conclude  
12 could have originated from Seymour Tankleff  
13 and could not have originated from Arlene or  
14 Martin Tankleff, correct?

15 A That's correct.

16 Q One of the bloodstains that you  
17 identify as Seymour Tankleff's blood is the  
18 blood on Item Number 3, correct?

19 A Yes. What is Item Number 3?

20 Q Take a look at --

21 A Question stain on the east  
22 wall. So that would have been over here in  
23 relation to the head. That's where the  
24 headboard would be.

25 Q In other words, you identified

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1 R. Baumann  
2 a stain of Seymour Tankleff's blood on the  
3 wall of the master bedroom above the  
4 headboard, correct?

5 A That's correct yes.

6 Q By the way, that was a -- You  
7 determined that that blood on the wall above  
8 the headboard came exclusively from Seymour  
9 Tankleff, it was not a mixed stain?

10 MR. MITCHELL: Objection to  
11 form. You can answer.

12 A Well, with DNA you can tell  
13 whether it's a mixed stain, but it appeared  
14 to be -- Well, the genetic markers that were  
15 detected in there were consistent with those  
16 associated with Seymour Tankleff to the  
17 exclusion of the others, yes.

18 Q Okay. So maybe it was a mixed  
19 stain with Seymour Tankleff and somebody  
20 else, but it was not a mixed stain coming  
21 from either Arlene Tankleff or Marty  
22 Tankleff contributed to; fair to say?

23 MR. MITCHELL: Objection to  
24 form. You can answer.

25 A Let me see what the results are

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1 R. Baumann  
2 on there. Let me see Number 3. So it could  
3 be a II and a I or a II,I or a II,I and a I.  
4 So there is, yeah -- I mean the ABA is Type  
5 II,I on that. Is it possible to tell if it  
6 was a mix or not, I don't know.

7 What did the stain look like,  
8 do you have a photograph of that?

9 Q Either way, you're confident  
10 that neither Marty Tankleff or Arlene  
11 Tankleff contributed to that stain, correct?

12 MR. MITCHELL: Objection to  
13 form. You can answer.

14 A Based on the technology and the  
15 genetic markers I was using at the time, I  
16 don't believe so. I know that wherever I  
17 had enough stain, we would retain it. That  
18 was a policy that my present supervisor Joe  
19 Galdi and I instituted shortly after we got  
20 there, so any stain that we could retain a  
21 portion of, we did, and they were released  
22 to the State police.

23 So if that was one of those  
24 items, then to see if it was a mixture, if  
25 they got a result on that, that would be the

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R. Baumann

R. Baumann

**best way to determine that.**

**Q** But you determined back in 1988 that that stain was Seymour Tankleff's blood and not Arlene or Marty Tankleff's blood, correct?

**A** That it could have originated from Seymour Tankleff and not the other two. That's based on the assumption that it's from a single source and not a mixture.

**Q** But you have no reason to believe it was a mixture, right, or you would have documented that?

MR. MITCHELL: Objection to form. You can answer.

**A** You could not really tell that it was a mixture.

**Q** Okay. If it had been a mixture; however, it was not a mixture with Arlene or Marty, right?

MR. MITCHELL: Objection to form. You can answer.

**Q** Or you would have seen --

**A** I just got one genetic marker on this; ABA Type II,I so that would

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R. Baumann

**encompass the three types. You have three types. In ABA you have a II, which is very uncommon, but I which is very common, and a II,I is somewhere in between. Seymour Tankleff happened to be a II,I thus could have originated from him and not from Marty or Arlene.**

**I'm telling you that now based on the assumption it's not a mixture.**

MS. FREUDENBERGER: Let's mark this 16.

(Whereupon, Plaintiff's Exhibit 16 was marked for identification.)

**Q** Take a look at what's been marked Plaintiff's Exhibit 16. Can you identify that document first?

**A** This is a sheet indicating the results I got from genetic testing conducting electrophoresis, the evidence in this case.

**Q** Take a look at page Bates number AG590 in the lower right-hand corner.

**A** Yes.

**Q** You see where you say item

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1

number? You have the notes on Item Number 3 on the bottom, three fields up from the bottom?

**A** Yes.

**Q** And you characterize that stain as wall splatter?

**A** Yes. It's indicating the type of stain that that would be.

**Q** You determined that that was a splatter stain?

**A** Yes.

**Q** As opposed to a smear.

**A** Right.

**Q** And does splatter suggest to you castoff from a weapon?

**A** Or it indicates that that blood is airborne when it makes contact with the target surface.

**Q** Okay.

**A** It doesn't mean it's just from a weapon.

**Q** But certainly, a splatter stain on a wall would be consistent with a castoff from a weapon, correct?

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R. Baumann

MR. MITCHELL: Objection to form. You can answer.

**A** Or from it being projected on a the wall from something such as a beating.

**Q** What's a beating?

**A** Well, say someone is being beaten with an object used to hit somebody where blood is pooled. Blood can be projected from that wound onto a surface and that would cause a spatter as well.

**Q** That makes sense. But here we know that Seymour Tankleff was killed in the office and Arlene Tankleff is killed in the bedroom, correct?

MR. MITCHELL: Objection to form. You can answer.

**A** It appears to be that way, yes.

**Q** So given that there is no indication that Seymour Tankleff was actually beaten in the bedroom, would you agree that the most likely explanation for the splatter of Seymour Tankleff's blood on the wall is castoff from a weapon?

MR. MITCHELL: Objection to

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1 R. Baumann  
 2 form. You can answer.  
 3 **A It could be.**  
 4 **Q** Can you think of anything else  
 5 equally likely for splatter castoff from a  
 6 weapon, the most likely explanation for  
 7 Seymour Tankleff's blood being on that wall?  
 8 MR. MITCHELL: Objection to  
 9 form. You can answer.  
 10 **A Well, if he was not in there**  
 11 **being beaten, the alternative would be that**  
 12 **it could be castoff.**  
 13 **Q** In other words, the most likely  
 14 alternative you could can think of for --  
 15 **A I can't think of another --**  
 16 **Presently, I can't think of another**  
 17 **scenario --**  
 18 **Q** The only explanation, as you  
 19 sit here today, for the splatter stain of  
 20 Seymour Tankleff's blood on the wall above  
 21 the headboard in the master bedroom is that  
 22 it's castoff from a weapon, correct?  
 23 MR. MITCHELL: Objection to  
 24 form. You can answer.  
 25 **A -- or it somehow gets projected**  
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1 R. Baumann  
 2 **on that wall. I don't know how, but I**  
 3 **suppose if somebody walked in and gave me a**  
 4 **scenario that could be a possibility, but**  
 5 **right now we don't have that scenario so**  
 6 **being that you're putting out the castoff**  
 7 **like that is certainly a possibility.**  
 8 **Q** Okay. That's the most likely  
 9 possibility that you can think of as you sit  
 10 here today?  
 11 MR. MITCHELL: Objection to  
 12 form. You can answer.  
 13 **A Well, that's a possibility.**  
 14 **Q** Okay. Can you think of some  
 15 more likely possibilities as you sit here  
 16 today?  
 17 **A Unless somehow it becomes**  
 18 **projected on the wall once it becomes**  
 19 **airborne.**  
 20 **Q** Can you think of anything?  
 21 **A I don't know.**  
 22 **Q** Let me ask my question. Can  
 23 you think of any way that Seymour Tankleff's  
 24 blood could have been airborne and ended up  
 25 on the wall other than castoff of Seymour  
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1 R. Baumann  
 2 Tankleff's blood from a weapon?  
 3 MR. MITCHELL: Objection to  
 4 form. You can answer.  
 5 **A Maybe from somebody's hand.**  
 6 **Q** Okay.  
 7 **A Maybe not a weapon, maybe a**  
 8 **hand.**  
 9 **Q** A glove?  
 10 **A Something. Something that**  
 11 **stained like that would have to be airborne**  
 12 **to be projected onto the wall either by**  
 13 **castoff or being projected there somehow.**  
 14 **Q** Okay. So the only likely  
 15 explanation you can think of, as you sit  
 16 here today, as to how Seymour Tankleff's  
 17 blood got on the wall in the master bedroom  
 18 is that it was castoff either from a weapon,  
 19 a hand or a glove?  
 20 **A It's one stain so, you know, we**  
 21 **don't have an entire pattern where we can**  
 22 **say it's castoff. A lot of times castoff**  
 23 **you're saying, well, you see a linear**  
 24 **pattern of stains that may be, depending on**  
 25 **what it's cast off and how much blood is on**  
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1 R. Baumann  
 2 **the object, okay, maybe a linear pattern**  
 3 **where to the surface as it projects out it**  
 4 **becomes more elongated.**  
 5 **This is not your typical**  
 6 **castoff pattern so it's hard to say whether**  
 7 **it's castoff. I'm not going to come to a**  
 8 **conclusion. It's blood that is projected on**  
 9 **that wall either by castoff or another**  
 10 **mechanism.**  
 11 **Q** Okay. So let's just talk in  
 12 specifics. I'll be straight with you. I  
 13 can't think of any way that Seymour's blood  
 14 -- as you said, the blood would have had to  
 15 be airborne. It's not a case where someone  
 16 was smearing Seymour Tankleff's blood on the  
 17 wall. Nobody from the crime scene  
 18 presumably was coming in with a bucket of  
 19 Seymour's blood and splashing it on the  
 20 wall.  
 21 I can't think of any way for  
 22 Seymour's blood to get on the wall in, as  
 23 you say, an airborne way, other than  
 24 Seymour's blood being either on a weapon or  
 25 on a hand of somebody attacking Arlene; can  
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1 R. Baumann  
 2 you?  
 3 MR. MITCHELL: Objection to  
 4 form. You can answer.  
 5 **A That's a possibility, yes.**  
 6 **Q** So one possibility is Seymour's  
 7 blood gets on the wall because it's on a  
 8 weapon or somebody's hand, naked or gloved,  
 9 in the master bedroom and there's movement  
 10 and it becomes airborne and it gets on the  
 11 wall, right?  
 12 MR. MITCHELL: I object to the  
 13 form. You can answer.  
 14 **A One drop?**  
 15 **Q** Right.  
 16 **A I suppose that's a possibility.**  
 17 **Q** Can you think of any other  
 18 possibility?  
 19 **A That somehow it's projected**  
 20 **onto that wall in a different way.**  
 21 **Q** What other way?  
 22 **A I don't know.**  
 23 **Q** Can you think of -- Let me ask  
 24 you this. I just want to make sure I  
 25 understand the alternatives.

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1 R. Baumann  
 2 Can you think of any other way  
 3 that Seymour's blood could have been  
 4 projected onto the wall in the master  
 5 bedroom as you sit here today?  
 6 MR. MITCHELL: Objection to  
 7 form. You can answer.  
 8 **A Not offhand, no.**  
 9 **Q** Okay. You found a second stain  
 10 of Seymour's blood in the master bedroom,  
 11 correct?  
 12 **A Yes.**  
 13 **Q** Okay. We can go through it if  
 14 you want, but maybe we can save time. I  
 15 believe that was an oval stain on one of the  
 16 sheets in the bed?  
 17 **A Yes.**  
 18 **Q** And in contrast to the blood on  
 19 the wall that was not splatter, correct?  
 20 **A It did not appear to be, it was**  
 21 **oval in shape.**  
 22 **Q** Why don't we actually look  
 23 at -- Let's be precise and look at what you  
 24 wrote down on your worksheet.  
 25 **A Okay.**

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1 R. Baumann  
 2 **Q** Do you see --  
 3 **A S-3.**  
 4 **Q** Would you read that aloud?  
 5 **A Looks like, oval spot against**  
 6 **medium velocity spatter, approximately 9x5**  
 7 **millimeters. So it was oval in shape.**  
 8 **Q** I think you said against, it  
 9 says amidst.  
 10 **A Amidst, yes.**  
 11 **Q** In other words, what you found  
 12 was medium velocity spatter that was  
 13 Arlene's blood, correct?  
 14 **A I didn't test the stains around**  
 15 **it, I only tested S-3.**  
 16 **Q** Okay. Why is that?  
 17 MR. MITCHELL: Objection to  
 18 form. You can answer.  
 19 **A Because I chose that stain to**  
 20 **test.**  
 21 **Q** Why did choose that stain?  
 22 **A It was among the stains on that**  
 23 **sheet that I chose for testing. I'm not**  
 24 **going to test each and every stain on each**  
 25 **and every case, so I take a selection of a**

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1 R. Baumann  
 2 **representative sampling.**  
 3 **Q** Fair to say you selected that  
 4 stain because it appeared different than the  
 5 other?  
 6 **A I would think so.**  
 7 **Q** Okay. Does an oval spot  
 8 indicate that the blood most likely is  
 9 dripping down from a 90-degree angle?  
 10 **A On something that's normal to**  
 11 **the surface like this under a controlled**  
 12 **condition and if a drop of blood makes**  
 13 **contact with it, it tends to be round. As**  
 14 **it makes contact changing the angle of**  
 15 **impact, it's going to be more elliptical.**  
 16 **So depending on the position of the sheet**  
 17 **and also the direction of the blood**  
 18 **travelling at the time is going to affect**  
 19 **that, so I can't say how that got there, but**  
 20 **it looks like it was due to probably a drop**  
 21 **coming in at some direction, which direction**  
 22 **I don't know.**  
 23 **Q** But the most likely explanation  
 24 for that spot of blood -- Would you agree,  
 25 that the most likely explanation for that

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1 R. Baumann  
 2 spot of blood is Seymour's blood dripping  
 3 off of either a weapon or a hand onto the  
 4 bed sheet?  
 5 MR. MITCHELL: Objection to  
 6 form. You can answer.  
 7 **A Well, I wouldn't say a hand.**  
 8 **Maybe -- I don't know. It's Seymour -- How**  
 9 **it got there, I don't know.**

10 MR. MITCHELL: Before you ask  
 11 the next question, he used the  
 12 phrase, if it dropped on this, and  
 13 he was referring to the surface of  
 14 the table that we're sitting at.  
 15 **Q** But that drop of Seymour's  
 16 blood forming an oval certainly would be  
 17 consistent with blood dripping off a weapon,  
 18 correct?

19 MR. MITCHELL: Objection to  
 20 form. You can answer.  
 21 **A That's one possibility.**  
 22 **Q** Okay. Can you think of any  
 23 other possibilities as you sit here today?  
 24 **A It could be dripping off**  
 25 **another type of object or perhaps somebody's**

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1 R. Baumann  
 2 **hands or perhaps Seymour had a bloody nose**  
 3 **in there at some point and it dropped on**  
 4 **there like that. I don't know.**  
 5 **We can't determine when stains**  
 6 **are deposited on substrates such as the**  
 7 **sheets.**

8 **Q** For it to come from a bloody  
 9 nose from Seymour, he would have to be --

10 **A I'm just saying that's a**  
 11 **possibility.**

12 **Q** Would you say it's more likely  
 13 that it was left by a drop of blood coming  
 14 off a weapon or a body part than a drop of  
 15 blood falling from Seymour Tankleff's nose  
 16 on the middle of the sheet and landing and  
 17 forming an oval?

18 MR. MITCHELL: Objection to the  
 19 form. You can answer.

20 **A I don't know how it got there.**  
 21 **I don't know if one scenario is more likely.**  
 22 **But, you know, it's not transferred there by**  
 23 **contact. You know, it's not a smear. It's**  
 24 **not a contact-type stain.**

25 **Q** Certainly, you believed -- The

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1 R. Baumann  
 2 reason that you selected that stain to test  
 3 is that you believed that it had come from  
 4 the crimes, correct?  
 5 **A Yeah. I mean, you know, it**  
 6 **just had a different pattern than the**  
 7 **patterns around it so I selected that stain,**  
 8 **I'm sure, because it appeared to be**  
 9 **different.**

10 **Q** And it appeared to be left at  
 11 some point during the commission of the  
 12 crimes, correct?

13 MR. MITCHELL: Objection to  
 14 form. You can answer.  
 15 **A I don't know for sure but -- I**  
 16 **don't know for sure.**

17 **Q** Okay.

18 **A I mean, listen, he sleeps in**  
 19 **that bedroom. He spends time in that**  
 20 **bedroom.**

21 **Q** If at the time you had thought  
 22 that the most likely explanation for that  
 23 blood that it had come from a nose bleed  
 24 Seymour had and they had not washed their  
 25 sheets, you would not have selected that as

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1 R. Baumann  
 2 one of the representative samples on the  
 3 sheets, correct?

4 **A If that was the only stain?**

5 **Q** No. You already told me it was  
 6 not the only stain. There are a bunch of  
 7 stains on the sheets --

8 **A I don't know when it gets**  
 9 **there.**

10 **Q** Let me finish my question.  
 11 There are a whole variety of stains on the  
 12 sheets and you selected a representative  
 13 sample of stains to test, correct?

14 **A Correct.**

15 **Q** If, at any time, looking at the  
 16 sheet you had suspected that that oval drop  
 17 of blood did not come from the crime,  
 18 presumably, you would not have selected that  
 19 oval spot to test?

20 **A There is no way of telling**  
 21 **that.**

22 **Q** I understand. I was talking  
 23 about what was in your mind at the time you  
 24 selected which stain you were going to test.  
 25 Presumably you tested those stains you

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1 R. Baumann  
2 thought would come from the crime?  
3 MR. MITCHELL: Objection to  
4 form. You can answer.  
5 **A I usually select the stains**  
6 **based on their appearance in relation to**  
7 **each other, whether it's part of a pattern,**  
8 **whether the size of the stains around it are**  
9 **similar, whether they're droplets, whether**  
10 **they are contacts. That's usually how I**  
11 **select stains for testing.**  
12 **Q** And this case was no different,  
13 correct?  
14 **A I don't think so.**  
15 **Q** Okay. So let me ask you this.  
16 You already told us that you found none of  
17 Arlene's blood in Seymour's office, correct?  
18 **A No.**  
19 **Q** But by contrast you did find at  
20 least two separate samples of Seymour's  
21 blood in the master bedroom where Arlene was  
22 killed?  
23 MR. MITCHELL: Objection to  
24 form. You can answer.  
25 **A Yes, two stains could have come**  
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1 R. Baumann  
2 **from Seymour Tankleff, yes.**  
3 **Q** And the only explanation you  
4 can think of today for the stain of Seymour  
5 Tankleff's blood on the wall is that  
6 Seymour's blood was transported into  
7 Arlene's room, somehow became airborne and  
8 ended up on the wall, correct?  
9 MR. MITCHELL: Objection. You  
10 can answer.  
11 **A Yes, that would be correct.**  
12 **Q** Okay. To start, given those  
13 facts, would you agree that it's more likely  
14 that Seymour Tankleff was killed before  
15 Arlene Tankleff?  
16 MR. MITCHELL: I object to the  
17 form. You can answer.  
18 **A I can't make that statement or**  
19 **come to that conclusion based on that.**  
20 **First of all, it's Seymour**  
21 **Tankleff's bedroom. Could they be**  
22 **innocently there on the wall? Did he cut**  
23 **his finger? Do we know when that stain gets**  
24 **there? Does he have a bloody nose? Is**  
25 **there an innocent explanation for that**  
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1 R. Baumann  
2 **blood? We don't know.**  
3 **What I can say is, based on**  
4 **that pattern, it's projected onto that wall**  
5 **somehow and the same with the sheet. It's**  
6 **an oval spot consistent with a droplet. How**  
7 **it gets there, I don't know. And to give an**  
8 **opinion saying well, you know, it's because**  
9 **he was killed first and it's more likely**  
10 **that he was killed first and then come in**  
11 **there. I don't know how or when that blood**  
12 **gets there so I can't draw that conclusion.**  
13 **Q** So one possibility is that  
14 Seymour Tankleff's blood was -- There was a  
15 splatter of Seymour Tankleff's blood on the  
16 wall in the master bedroom an a drop of  
17 Seymour Tankleff's blood on the sheets in  
18 the master bedroom before the murders even  
19 occur, correct?  
20 **A Correct.**  
21 **Q** And I understand you raised  
22 that possibility and that possibility  
23 prevents you from being able to say that  
24 Seymour Tankleff was killed first and his  
25 blood got into the master bedroom based on  
FEVOLA REPORTING & TRANSCRIPTION INC. (631) 724-7576

1 R. Baumann  
2 it being transported into the master bedroom  
3 by whomever the perpetrator was.  
4 Let's agree to set that as an  
5 explanation aside for a moment. That's one  
6 possibility.  
7 **A Yes.**  
8 **Q** If that's not the case, if at  
9 the time the Tankleff murders occurred on  
10 September 7, 1988 Seymour's blood was not  
11 already on the sheet and in a splatter  
12 pattern on the wall, then would you agree  
13 that it's more likely than not that Seymour  
14 was killed first and Seymour's blood ended  
15 up in those two spots in the master bedroom  
16 because it was transported in on either a  
17 weapon or body part; would you agree with  
18 that?  
19 MR. MITCHELL: Objection to  
20 form. You can answer.  
21 **Q** Would you agree with that?  
22 **A I can't think of an alternative**  
23 **to that unless somehow -- I don't see how in**  
24 **that scenario that blood would be in there.**  
25 **Q** You examined Arlene Tankleff's  
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1 R. Baumann  
 2 nightgown, correct?  
 3 **A Yes.**  
 4 **Q** And you observed a number of  
 5 cuts on the nightgown?  
 6 **A There was some damage to the**  
 7 **front of the nightgown, yes.**

8 MS. FREUDENBERGER: Let's go  
 9 ahead and mark this.

10 (Whereupon, Plaintiff's Exhibit  
 11 17 was marked for identification.)

12 **Q** Going back to Seymour's blood  
 13 in the master bedroom for a second, the only  
 14 two alternatives you can think of, as you  
 15 sit here today, for how Seymour's blood got  
 16 in those two spots in the master bedroom is  
 17 either that Seymour was killed before Arlene  
 18 and Seymour's blood got onto the sheets and  
 19 on the wall because it was brought into the  
 20 bedroom on a weapon or on a body part or  
 21 Seymour's blood was already on the wall or  
 22 sheet because of some explanation having  
 23 nothing to do with the crime; fair to say?

24 MR. MITCHELL: Objection to  
 25 form. You can answer.

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1 R. Baumann  
 2 **A Either there is an innocent**  
 3 **explanation because it is his room, as you**  
 4 **said, or if it occurs during the course of**  
 5 **the crime and he's at one end of the house**  
 6 **and she is there, somehow that makes it onto**  
 7 **the wall and onto the bed in a manner in**  
 8 **which the blood either drips or is**  
 9 **projected.**

10 **Q** And that would suggest the  
 11 attack on Seymour happened before the attack  
 12 on Arlene, correct?

13 **A Yes, there would have to be**  
 14 **Seymour's blood -- He would have to be**  
 15 **bleeding in order for his blood to be**  
 16 **brought down to the bedroom and deposited**  
 17 **onto the sheet and wall.**

18 **Q** And to be clear, that would  
 19 indicate that he was attacked before Arlene,  
 20 correct?

21 MR. MITCHELL: Objection to  
 22 form. You can answer.

23 **A That would seem to indicate**  
 24 **that.**

25 **Q** Okay. If that were the case,

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1 R. Baumann  
 2 then the order of the murders described in  
 3 Marty Tankleff's confession would be  
 4 incorrect, correct?  
 5 MR. MITCHELL: Objection to  
 6 form. You can answer.  
 7 **A That he killed his mother and**  
 8 **then went down, attacked his father, unless**  
 9 **he came back to the bedroom -- Well, unless**  
 10 **somebody offers a different scenario, I**  
 11 **can't think of another reason short of, you**  
 12 **know, the blood being there innocently how**  
 13 **it would make its way down to that room**  
 14 **unless somebody went down there and**  
 15 **contaminated it with Seymour's blood on that**  
 16 **sheet and on that wall.**

17 **I don't know how that blood**  
 18 **would make it -- I would not have an**  
 19 **explanation for how it got down there**  
 20 **otherwise.**

21 **Q** So unless there is an innocent  
 22 explanation for Seymour's blood in the  
 23 master bedroom, the blood evidence, your  
 24 analysis, shows that the order of murders  
 25 described in the confession is inaccurate,

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1 R. Baumann  
 2 correct?  
 3 MR. MITCHELL: I object to the  
 4 form. You can answer.  
 5 **A I don't know. I don't know**  
 6 **that I'd go so far as to render that**  
 7 **opinion. I don't know if I'm in a position**  
 8 **to do that.**

9 **Q** Well, tell me how there's any  
 10 other possibility given what you've already  
 11 explained?

12 MR. MITCHELL: Objection to  
 13 form. You can answer.

14 **A I don't know. I think**  
 15 **something like that I would like to discuss**  
 16 **with colleagues who might give me a viable**  
 17 **alternative as to how that might happen, but**  
 18 **right here, as we sit here today, I can't**  
 19 **think of one, but there could be one. I'm**  
 20 **just at a loss, but somebody else may have**  
 21 **an explanation for that. I don't know what**  
 22 **that would be but...**

23 **Q** Okay. In other words,  
 24 presented with?

25 **A I think something like that I**

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R. Baumann

**would want to bounce off colleagues who have more experience than I do to hear them out on that.**

**Q** Did you have that conversation with any of your colleagues in 1988?

MR. MITCHELL: Objection to form. You can answer.

**A No, not that I recall.**

**Q** Why not?

MR. MITCHELL: Objection to form. You can answer.

**A I don't recall whether or not I had that conversation --**

**Q** Okay.

**A -- either that it come up or I just reported the results out.**

**Q** Certainly, you reported the results of that testing -- Well, you reported all your results, correct?

**A Yes.**

**Q** One way or another you made sure your results found their way to the detectives in charge of the investigation, correct?

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R. Baumann

**A Yes.**

**Q** Did Detective McCready or any other detectives ever come and ask you any questions about what the presence of Seymour's blood in the master bedroom showed?

MR. MITCHELL: Objection to form. You can answer.

**A Not that I recall, no.**

**Q** If they had, you would have been more than willing to answer those questions, correct?

**A Yes. I mean if somebody had asked me for my opinion or what I had thought, I would have spoken to them, sure.**

**Q** And nobody did, right?

**A Not that I recall, no.**

**Q** Okay. Did anybody ever ask you to do any additional analysis in light of the results of the taking of the blood in the master bedroom?

**A No, not that I recall.**

**Q** If anybody had asked, you would have done that, correct?

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R. Baumann

MR. MITCHELL: Objection to form. You can answer.

**A Usually we do.**

**Q** Here in this case there is no reason you wouldn't have done additional analysis if anybody asked you to in light of those blood results, correct?

**A No.**

**Q** You examined Arlene's nightgown back in 1988, correct?

**A Yes.**

**Q** And you looked at the nightgown under a microscope; is that right?

**A Yes. Part of it, yes.**

**Q** Take a look at 2210 of your testimony. Read, Mr. Baumann, if you would from Page 2209, line 18 to 2210, line 20.

**A Visual examination. One negligee. It's white. It was almost saturated with blood --**

**Q** You can read it to yourself.

**A Oh, okay.**

**Q** By the way, do you have an independent recollection, aside from what's

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R. Baumann

in your testimony, as you sit here today, of the testing you performed on the nightgown?

**A No.**

**Q** Does that testing refresh your recollection that although you observed a number of cuts on the nightgown you only examined one cut microscopically?

**A Yes. I don't recall if I examined more than one or not.**

**Can I take a look at the copy of my notes there?**

**Q** Yes.

MS. FREUDENBERGER: Let's mark this.

(Whereupon, Plaintiff's Exhibit 18 was marked for identification.)

**Q** So Mr. Baumann, it looks to me looking at your notes like the only cuts about which you make notation -- you only make notations about the cut on the upper left-hand shoulder of the nightgown; is that right?

**A Yes, it looks like it. There is one across the -- from the neck over.**

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R. Baumann

**Q** Okay.

**A And then, there's an L-shaped cut, just pretty short sleeves, there is one there.**

**Q** Would you agree that by lining up cuts in a garment worn by an attacked victim and wound pattern you can sometimes discern whether an individual was static or moving at the time of the attack?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know. I don't know.**

**Q** You never heard of that before?

MR. MITCHELL: Objection to form. You can answer.

**A It's something that I would not venture judgement on.**

**Q** Because it's outside your area of expertise?

**A I think so, yeah.**

**Q** Have you ever heard that before? Are you saying that that's possibly something that can be done or it's just not something you do?

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R. Baumann

MR. MITCHELL: Objection to form. You can answer.

**A It's not something I do so I can't really give you an opinion on that.**

**Q** But it's something you heard can be done, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Can it? I don't know.**

**Q** You've never heard that could be done before?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know that it can be done. I don't know that anybody is going to sit still for that kind of experiment.**

**Q** Have you ever heard that by lining up --

**A The cuts.**

**Q** -- the cuts on something someone is wearing when they die and the wound pattern, you can figure out whether they were moving at the time of the cut?

MR. MITCHELL: Objection to

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R. Baumann

form. You can answer.

She's asking if you ever heard of that?

**A Yes, I've heard of that.**

**Q** Okay. Would you agree that in this case if the cuts in Arlene Tankleff's nightgown line up with the stab wounds on her body that would suggest that she was not moving at the time that she was cut?

MR. MITCHELL: Objection to form. You can answer.

**A I can't give an opinion on that. I think the medical examiner, you know, would have to be the one to line up the clothing with the cuts.**

**Q** Yeah, no, I'm not asking if you did that or suggesting you should have done that, I'm just asking if, in your opinion, if that is something -- if the medical examiner could line up the wound patterns and the cuts in the nightgown, if that would suggest to you that Arlene was not moving at the time she was cut?

MR. MITCHELL: Objection to

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R. Baumann

form. You can answer.

**A I can't give you an answer on that. I don't really know.**

**Q** If anybody asked you to do that back in 1998, would you be willing to do that?

**A No, because it's outside the area of my expertise.**

**Q** Okay.

By the way, it was clear to you when you walked into Arlene Tankleff's bedroom on the morning of the crimes that she had been bludgeoned, correct?

MR. MITCHELL: Objection to form. You can answer.

**A No, it wasn't.**

**Q** It wasn't?

**A No.**

**Q** You remember that today?

**A I believe so. She was on her back on the floor face up and, as far as I can recall, I don't recall her being bludgeoned. I remember she had a pretty good splice across her throat.**

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**Q** Are you saying you cannot tell or you just don't remember one way or the other?

MR. MITCHELL: Objection to form. You can answer.

**A I don't recall knowing that she was bludgeoned.**

MS. FREUDENBERGER: Mark this. (Whereupon, Plaintiff's Exhibit 19 was marked for identification.)

**Q** Mr. Baumann, you told me earlier that you reviewed the memorandum prepared by agencies from the State Commission of Investigation after interviewing you in 2008, right?

**A Yes.**

**Q** And you said you noticed some things in this memo that were inaccurate?

**A Yes.**

**Q** One thing you told me was inaccurate on Page 3 of the memorandum states, referring to you, he said he obtained gloves from several supermarkets and tested them to see if he could duplicate

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**Q** Tell me everything in this memo other than that that is inaccurate?

**A Criticism, that's interesting. Last page.**

**Q** Is this something that you noticed that was inaccurate?

**A Yeah.**

**Q** Tell me what that is?

**A I don't know where that came from.**

**Q** What are you talking about?

**A Criticism. The only criticism directed towards the crime scene and Crime Lab personnel by their supervisors was that they took so long to process the scene.**

MR. MITCHELL: Clarify for the record what you were reading.

**A I'm reading from the memorandum.**

**Q** I see. Section M. Tell me what's inaccurate about that statement?

**A I don't recall ever being criticized by how long it took to do the same by my supervisor or anybody for that**

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the pattern on the bedroom walls. He was unable to duplicate the exact pattern, correct?

**A That is correct.**

**Q** And your position is that that's something fabricated by the author of this memo?

MR. MITCHELL: Objection to for. You can answer.

**A Unless he had me mixed up with somebody else that did, but at no time did I go out and test gloves to see if the patterns were similar to what we found.**

**Q** And you did not report to him that you did, in fact, do that?

**A No.**

**Q** So either he has you mixed up with somebody else or made that up?

**A Maybe Genna did. I don't know if he did or not but, yeah, I certainly did not.**

**Q** Okay. Anything else in this memo you spotted that was inaccurate?

**A Let's see. What else?**

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**matter.**

**Q** Do you recall any criticism directed towards the Crime Lab personnel by anybody in this case?

**A No, not to me.**

**Q** Well, do you recall criticism of anybody else that you were privy to by anybody concerning the crime scene analysis in this case?

MR. MITCHELL: Objection to form. You can answer.

**A No. And --**

**Q** You have to wait for me to ask a question.

**A Well, you were going to say is there anything else.**

**Q** No, I wasn't going to say that.

**A Well, there is one other thing here.**

**Q** Is it something that's inaccurate in this memorandum?

**A Yes.**

**Q** Tell me.

**A My opinion down on bottom, I**

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**don't recall saying I believe the attacker was angry.**

**Q** So it sounds like there are three things in this memo that you did not report to the agents from the State Investigation Commission; is that correct?

**A Yes.**

**Q** One is that you did not report that you tried on -- that you purchased different gloves and tried to match them up to the patterns, one is that your supervisors never criticized you for taking a long time to process the scene or anybody else that you know of, correct?

**A Correct.**

**Q** And the third thing is that you did not report that you believe whomever attacked Arlene was angry, correct?

**A Not to my recollection. If I did, I was remiss in doing so, but I certainly don't remember giving that opinion.**

**Q** Okay. Did you report to the agents from the State Investigation

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Commission that there was a pretty good cut on Arlene Tankleff's back across her shoulder?

**A I don't recall.**

**Q** Did you report to the agents from the State Investigation Commission that you believe the attack on Arlene Tankleff probably started in the bed and wound up on the floor?

**A I believe so, yes.**

**Q** That's something that stood out in your mind 20 years after the crimes?

**A Well, you had blood on the bed and she ends up on the floor. So, you know, by looking at the scene, that's what it appeared to be. And also, after looking at the type of the blood there in the position that she's in, it does not look like she climbs up on the bed.**

**Q** When you say by looking at the typing you mean --

**A By looking at the genetic markers on the stains on the bed.**

**Q** What about the genetic markers

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in the stains on the bed tell you that the attack started in the bed?

**A A lot of it is blood consistent with her.**

**Q** You stated earlier that the only explanation you can think of, as you sit here today, for the oval stain on the bed, other than it was already there in an innocent way from Seymour Tankleff, was that it was a drip from a weapon or a body part that had been in the office while Seymour was attacked, correct?

**A I don't think that's accurate.**

**Q** What's inaccurate about that?

**A My belief is that it was a drip from something, whether it was a body part, whether it was a weapon, whether it was, you know -- I don't know what it could have been a drip from.**

**Q** Okay.

**A Obviously it was a blood stain consistent from having come from Seymour Tankleff.**

**Q** And it obviously dripped from

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something that had come into contact with Seymour Tankleff after he had been attacked, right?

MR. MITCHELL: Objection to form. You can answer.

**A That's one of the possibilities, yes.**

**Q** That and the fact that the blood was there innocently are the only two possibilities you can think of, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Well, somehow it got from -- If that, in fact, is from Seymour Tankleff, it got there from him bleeding.**

**Q** So a third possibility is that your blood typing results are inaccurate; is that what you're saying?

**A No, what the technology limitations were at the time.**

**Q** Right. I'm saying a third possibility is your typing of that blood is inaccurate, correct?

**A I would not say it's**

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**inaccurate.**

**Q** Okay. So you don't think it's possible that your blood typing results are inaccurate. So the only two ways you can think of, as you sit her today, that that oval stain of Seymour's blood could have gotten on the sheet are that it dripped off a weapon or a body part, something that was exposed to Seymour Tankleff during or following the attack and dripped off of that on the bed, correct? You told me that six different times.

**A** It dripped off of something onto the bed.

**Q** Given it dripped off of something onto the bed and given its position on the bed if, in fact, that drip came from a weapon or a body part, that indicates that the attacker was, at some point, on the bed; fair to say?

MR. MITCHELL: Objection to form. You can answer.

**A** Not necessarily, no.

**Q** Why not?

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**A** Because it doesn't -- The mattresses are not that wide. It could have been drip there from somebody reaching across the bed perhaps.

**Q** It's two twin beds pushed together, correct?

**A** Yes.

**Q** That's pretty wide, right? You have to have a wide wingspan to reach over, correct?

**A** Depending on what side of the bed you're on.

**Q** Mr. Baumann, you've been in plenty of crime scenes where someone's jugular is cut, correct?

MR. MITCHELL: Objection to form. You can answer.

**A** I wouldn't say plenty of crime scenes where somebody's jugular is cut, no.

**Q** Have you been in other crime scenes besides this one where somebody's jugular is cut in the course of your career?

**A** I know of a body that was dumped on the road where the jugular had

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**been cut.**

**Q** Did you go out to that crime scene?

**A** Yes.

**Q** Would you agree, based on your experience processing crime scenes for over 25 years, that if somebody's jugular is cut while their heart is beating at a normal rate, blood sprays all over the place?

MR. MITCHELL: Objection to form. You can answer.

**A** Well, the one that I was out on where the jugular was cut, he had been killed somewhere else and had been dumped.

**Q** Okay.

**A** If an artery is breached, yeah, you would get arterial spurt.

**Q** Okay. And here there was pooling around Arlene Tankleff's head, not arterial spurt, right?

MR. MITCHELL: Objection to form. You can answer.

**A** From what I recall, I believe so.

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**Q** Okay. And so, would you agree that the fact that there was pooling around Arlene Tankleff's head instead of arterial spurt indicates that Arlene Tankleff's heart had slowed considerably by the time her neck was cut?

MR. MITCHELL: Objection to form. You can answer.

**A** I don't know that I'm qualified to render that opinion. I think a medical examiner and somebody who is more trained in blood pattern analysis would be the one to answer that.

**Q** Okay. You don't disagree with that, you're just not qualified to offer an opinion on it?

MR. MITCHELL: Objection to form. You can answer.

**A** I don't have a picture of the whole scenario around where the foot of the bed was and what the bloodstain patterns were except that there was a pool of blood under her head. If there was blood projected onto the bed alongside or onto the

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**bedding that was taken from there, I don't know. I can't give you an opinion to that.**

**Q** Okay.

MS. FREUDENBERGER: Let's mark this.

(Whereupon, Plaintiff's Exhibit 20 was marked for identification.)

**Q** Mr. Baumann, does this picture represent Arlene Tankleff when you viewed her body on the morning of or the afternoon of September 7, 1988?

**A** Yes.

**Q** Do see any arterial splatter in that picture?

**A** Not in this photograph.

**Q** How about in any of the three photographs?

**A** I don't but again, I don't do proficiencies on blood stain patterns. Somebody that may be more proficient may see something in here that I don't.

**Q** Take as an assumption that there is no arterial spatter in the crime scene, would that indicate to you that

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**render that opinion.**

**Q** I'm not asking you as an expert, I'm asking you the same way I would ask Brian or Elizabeth or anybody else except that you have years and years of analyzing bloodstains on crime scenes.

Just based on your experience just analyzing blood at crime scenes, all the crime scenes you've been through and all the blood spatter that you've seen and not seen, are you willing to say that the fact that there is no blood spatter visible, assuming there is no arterial spray in the master bedroom, that would indicate that Arlene Tankleff's heart had slowed considerably at the time her throat was cut?

MR. MITCHELL: Objection to form. You can answer.

**A** Again --

**Q** You're not willing to say that?

**A** I'm not willing to say that.

(Whereupon, time noted is 5:20 p.m.)

**Q** Let's go back to the traps for

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Arlene Tankleff's heart had slowed considerably by the time that her throat was cut?

MR. MITCHELL: I object to the form. You can answer.

**A** I think a medical examiner would be a proper appropriate person to go to for that opinion.

**Q** But I don't have a medical examiner here, I only have you.

Would you agree that, in your opinion, whether you can be qualified as an expert on it or not, that assuming there is no arterial splatter anywhere that you can't see in these pictures, that suggests that Arlene Tankleff's heart slowed considerably at the time her throat was cut?

MR. MITCHELL: Objection to form. You can answer.

**A** I'm not going to answer that because it's outside my area of expertise.

**Q** You have to answer it whether it's your area of expertise or not.

**A** Well, I don't feel qualified to

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a second. Assuming that Marty Tankleff -- And you recall that the drain around the trap that you analyzed in Marty's shower, according to your trial testimony, was covered in soapy residue and had fibers on it?

**A** Yes.

**Q** Assuming that Marty slit his parents throats and bludgeoned them to death and subsequently washed off, not only the blood which presumably would be all over himself, but on the weapons in the shower whose drain you tested, wouldn't you agree that blood would have clung to the fibers in the drain or the soapy residue on the bottom of the drain and you would have been able to identify it by presumptive test?

MR. MITCHELL: Objection to form. You can answer.

You asked that question like almost that exact question already but I'll allow him to answer.

MS. FREUDENBERGER: I'm allowed to.

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1 R. Baumann  
 2 MR. MITCHELL: You're not  
 3 allowed to continue asking the same  
 4 question.  
 5 MS. FREUDENBERGER: I am. The  
 6 law is totally clear on that.  
 7 MR. MITCHELL: Okay.  
 8 MS. FREUDENBERGER: I'll send  
 9 it to you. It's interesting  
 10 actually.  
 11 MR. MITCHELL: It's your dime.  
 12 You want to ask him the same  
 13 question --  
 14 MS. FREUDENBERGER: I do. This  
 15 is a slightly different question so  
 16 I want to ask him this because I  
 17 can't believe he's actually  
 18 testifying to this so I want to ask  
 19 him again.  
 20 MR. MITCHELL: That comment is  
 21 gratuitous so I ask that it be  
 22 stricken from the record.  
 23 **A I did not detect blood on it.**  
 24 **Q** I understand. I'm asking you  
 25 something a little different, which is

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1 R. Baumann  
 2 assuming that Marty did in the span of  
 3 35 minutes, killed his parents and slit his  
 4 parents throats and bludgeoned them to death  
 5 in a very bloody crime scene, and then  
 6 cleaned himself and the weapons off in the  
 7 shower in his bathroom, would you not expect  
 8 that when you tested the traps and the  
 9 drains blood particles would have clung to  
 10 the fibers and the soapy residue in the  
 11 drain you identified?  
 12 **A No, I wouldn't assume that.**  
 13 **Q** I'm asking you if you would  
 14 have expected that? No, you would not  
 15 expect that?  
 16 **A No.**  
 17 **Q** Okay. Tell me why not.  
 18 MR. MITCHELL: Objection to  
 19 form. You can answer.  
 20 **A The blood could be diluted out**  
 21 **beyond what we could detect.**  
 22 **Q** Regardless of how diluted the  
 23 blood was, wouldn't you expect that -- I  
 24 mean there is no suggestion Marty took a  
 25 bath, submerged one foot and let the drain

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1 R. Baumann  
 2 run, and then took a bath submerged the tip  
 3 of the knife and let the drain run?  
 4 What the confession says is  
 5 that Marty took a shower with the weapon and  
 6 cleaned them all off in the shower. If  
 7 that, in fact, happened are you testifying  
 8 here today that you would not expect to see  
 9 any blood caught in the soapy residue or  
 10 fibers in the drain?  
 11 **A I'm testifying that --**  
 12 MR. MITCHELL: Objection to  
 13 form. You can answer.  
 14 **A -- that whatever was said to**  
 15 **happen, I didn't detect any blood on any of**  
 16 **the debris or the fibers or anything that**  
 17 **was on that trap in the bathtub.**  
 18 **Q** I understand. And if I asked  
 19 you this question say the day before the  
 20 Tankleff murders and described the scenario,  
 21 would you have said then that you would not  
 22 necessarily expect to see any blood clinging  
 23 to the soapy residue or fibers?  
 24 MR. MITCHELL: Objection to  
 25 form. You can answer.

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1 R. Baumann  
 2 **A That's correct.**  
 3 **Q** Okay.  
 4 **A You don't know until you test**  
 5 **it. You can hypothetical all you want, but**  
 6 **until you test it, you don't know.**  
 7 **Q** Okay. Is another possibility  
 8 that maybe Marty washed -- maybe the drain  
 9 was clean when Marty took a shower and he  
 10 had the foresight to apply a soapy residue  
 11 and fibers to the bottom of the drain after  
 12 he took a shower in order to cover up the  
 13 fact that he washed away off blood?  
 14 MR. MITCHELL: Objection to  
 15 form. You can answer.  
 16 **A Debris gets caught in a trap**  
 17 **over time. Soapy residue, copper oxidizes,**  
 18 **hairs get caught in there so...**  
 19 **Q** All that residue, soapy  
 20 residue, fiber and hair don't make it any  
 21 more likely that blood is going to get  
 22 caught in the trap than if there is no soapy  
 23 residue or fibers or hairs?  
 24 **A It's a what if.**  
 25 **Q** It's not, actually. Is this th

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only case where you ever tested the traps in a crime scene?

**A I've tested trap water and I can only think of one case where I got a positive result.**

**Q** Was that a case where somebody was alleged to have washed off an extraordinary amount of blood from there body and weapons?

MR. MITCHELL: Objection to form. You can answer.

**A I don't recall.**

**Q** You don't recall?

**A I don't recall.**

**Q** Maybe it was, right?

MR. MITCHELL: Objection to form. You can answer.

**Q** Maybe that other case was?

MR. MITCHELL: Objection to form. You can answer.

**A I don't recall. Maybe, maybe not. But I can think of one case in my career where I tested trap water that came back positive.**

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**Q** Yeah, I'm asking you something different though. So you tested trap water in all sorts of cases where it did not come back positive, right?

**A In a number of cases, yes.**

**Q** In any of that number of cases where you tested trap water and it did not come back positive, was an individual alleged to have washed an extraordinary amount of blood off their body and weapons?

**A I have no idea.**

**Q** You have no idea. Okay. Certainly, you can't think of any other case where you analyzed trap water under circumstances where somebody is alleged to have washed this much blood off in a short period of time and the traps came back negative; can you?

MR. MITCHELL: Objection to form. You can answer.

**A I take each case as they are, okay. This case, whatever the scenario is, how much blood is there, just because the scene appears very bloody does not mean**

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**somebody is going to be covered with blood. I've seen very bloody scenes, somebody must be covered with blood, and you get their clothing and they may just have a couple of spots on it.**

**I think CSI projects that image that somebody is going to be covered with blood. It's not always the scenario. I can't say what's the likelihood that all this blood is going to get caught up in a trap drain that has hair and some fibers attached to it.**

**Q** You understand that we looked at the confession when Marty purportedly Ted says in the confession it's not speculative. If he says he washed blood off himself and weapons in that shower, and you collected water from the traps in that shower, and tested them and, as you've told us, you found no blood, not withstanding a soapy residue at the bottom of the drain and all the fibers?

**A Yes.**

**Q** Okay. We now that the reason

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for that is not that Marty did not have blood on him because he purportedly confessed to washing himself off and all the weapons in the shower, right?

MR. MITCHELL: Objection to form. You can answer.

**A If that's in his confession, that's what he says.**

**Q** I'm asking you, are you not willing to say that that's inconsistent with your testing of the traps?

MR. MITCHELL: Objection to form. You can answer.

**A First of all --**

**Q** Can you answer that question yes or no?

**A I didn't find any blood there.**

**Q** I understand. I'm asking you a different question. Let me know if you can't answer yes or no. Let me know.

Are you willing to say that your finding that there was no blood anywhere in the bathroom including the trap contradict Marty's description in the

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1 R. Baumann  
 2 confession of washing himself and the  
 3 weapons off in the shower?  
 4 MR. MITCHELL: Objection to  
 5 form. You can answer.  
 6 **A If he, in fact, did, how much**  
 7 **water is running through there diluting it**  
 8 **out as it's going through?**  
 9 **Q** We know the answer to that. He  
 10 only had 35 minutes and he had to both stab  
 11 and bludgeon both of his parents.  
 12 **A I don't know the answer to**  
 13 **that.**  
 14 MS. FREUDENBERGER: But you do.  
 15 MR. MITCHELL: I object to your  
 16 characterization of my witness's  
 17 testimony that you do just because  
 18 you're no longer asking questions.  
 19 Now you're testifying. Just ask him  
 20 questions.  
 21 **Q** This is not a situation where  
 22 we don't know anything about the crime  
 23 scene. We know that there's only a  
 24 36-minute window for Marty to stab and  
 25 bludgeon both his parents and traverse the

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 2 house at least twice, according to the  
 3 confession, and then take a shower and clean  
 4 himself off and the weapons. And we know he  
 5 claims to have enough blood on him to need  
 6 to clean it off and the weapons, so it can't  
 7 be there is only a couple of drops of blood  
 8 on him.  
 9 And so, given those facts, are  
 10 you not willing to say that the absence of  
 11 blood anywhere in the bathroom is  
 12 inconsistent with the description in the  
 13 confession; that's all I'm asking?  
 14 MR. MITCHELL: Objection to  
 15 form. You can answer.  
 16 **A Wow, it's a pretty loaded**  
 17 **question. I don't know that I can answer**  
 18 **that because I was not there. All I can**  
 19 **testify to is that the bathroom was checked.**  
 20 **There was no trace of blood anywhere in the**  
 21 **bathroom including in there no matter what**  
 22 **the time span that he says he did this,**  
 23 **Okay.**  
 24 **I don't have any evidence of**  
 25 **any blood being in the trap in the trap**

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1 R. Baumann  
 2 **water.**  
 3 **Q** Sir, let me be clear because I  
 4 may not be being precise enough. I'm not  
 5 asking you whether what happened, what is  
 6 described in the confession happened. I'm  
 7 not asking you to offer an opinion on that.  
 8 You weren't there. I understand that.  
 9 You're a forensic scientist who analyzed  
 10 evidence from a crime scene.  
 11 The only thing I'm asking you  
 12 is whether your finding of a complete  
 13 absence of blood in the bathroom and in the  
 14 trap is inconsistent with the description in  
 15 the confession, that's all I'm asking you?  
 16 MR. MITCHELL: Objection to  
 17 form. You can answer.  
 18 **A I don't know.**  
 19 **Q** You don't know whether it's  
 20 inconsistent to not find any blood in the  
 21 bathroom or the traps given the description  
 22 in the confession of the way Marty killed  
 23 his parents and then showered in that shower  
 24 and then wash off the blood?  
 25 **A You could run water through**

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1 R. Baumann  
 2 **there to dilute it out where it wouldn't be**  
 3 **detectable. How much blood did he have on**  
 4 **him?**  
 5 **Q** You saw the bodies. You looked  
 6 at the crime scene. There was blood  
 7 everywhere.  
 8 **A It doesn't mean he has a lot of**  
 9 **blood on him.**  
 10 **Q** But he says he had to take a  
 11 shower and wash the blood off of him.  
 12 **A How much blood? Did he measure**  
 13 **it? I told you before some of the bloodier**  
 14 **scenes that I've seen, when you get the**  
 15 **evidence somebody wearing the clothing, who**  
 16 **was a perpetrator, has minimal blood,**  
 17 **sometimes has no blood.**  
 18 **Q** So maybe one possibility is  
 19 that Marty did not get very much blood on  
 20 him when he slit both his parents throats  
 21 and bludgeoned them to death. That's one  
 22 possibility you're putting out there,  
 23 correct?  
 24 **A Somebody, he or whoever, may**  
 25 **not have a lot of blood on them.**

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**Q** That's one possibility.

**A Another possibility is that he was covered in blood. So it's a hypothetical. I can't answer a hypothetical.**

**Q** You can answer a hypothetical. You're a scientist, correct?

**A Yes, but I can't answer hypothetical. And if somebody had a lot of blood and washed it off and ran the water through, it could still be undetectable.**

MR. MITCHELL: For the reporter, you have to let her finish her question and then I would ask Emma that you allow him to finish his answer otherwise the record looks like mud.

MS. FREUDENBERGER: Fair enough.

**Q** Sir, let me ask you a question. I'll try to ask it more fairly to you.

Would you agree that the absence of any blood in the bathroom or in the trap raises a red flag as to the

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accuracy of the description? The confession of how Marty supposedly washed blood off his body and the weapons?

MR. MITCHELL: Objection to form. You can answer.

**A Does it raise a red flag?**

**Q** Yeah.

**A That there is no blood in there?**

**Q** Yeah.

**A To me, no.**

**Q** Okay.

**A Because the absence of evidence -- Is it the evidence of absence? Something like that. I don't know. There is no blood in that bathroom that we could detect.**

**Q** Okay. Let's go through your findings one by one. You disassembled and carefully examined the knife that Marty Tankleff purportedly confessed to slashing his parents throat with and found no blood at all?

MR. MITCHELL: Objection to

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form. You can answer.

**A Correct.**

**Q** You disassembled and carefully examined the barbell Marty Tankleff purportedly confessed to bludgeoning his parents with and found no blood, correct?

**A Correct.**

**Q** You examined the bathroom and the traps where Marty Tankleff purportedly washed blood off himself and weapons in a 36-minute time span in which he also slit both parents throats, bludgeoned them to death and traversed a long hallway at least twice, correct?

**A Correct.**

**Q** Although the confession states that Marty killed his mother first, the blood evidence, the analysis you did on the blood from the master bedroom, at a minimum, suggests that the murders may have happened in the reverse order, correct?

MR. MITCHELL: Objection to form. You can answer.

**A May but there could be another**

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R. Baumann

**scenario in which Seymour's blood is not deposited --**

**Q** There could be another explanation?

**A Could be an alternative explanation.**

**Q** Okay. Does the fact that there was no blood found on the murder weapons from this very bloody crime scene, no blood found in the bathroom or the traps where Marty purportedly washed himself and the weapons in a short span of time after killing his parents, and the fact that the blood evidence indicates that the murders may have happened in a different order than in the confession, cause you to question at all the accuracy of the confession Marty Tankleff purportedly gave on September 7, 1988?

MR. MITCHELL: Objection to form. You can answer.

**A Well, my findings -- I don't have any evidence to corroborate what's on there so, you know, you have to take my**

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R. Baumann

**findings at face value. If it does not fit his confession that's not up to me to render an opinion. That's up to a judge and a jury.**

**Q** But your findings do contradict the confession at least with regard to the murder weapons, the way Marty purportedly disposed of the blood evidence and potentially the order of the murders too, correct?

MR. MITCHELL: Objection to form. You can answer.

**Q** Do you agree with that?

MR. MITCHELL: Objection to form. You can answer.

**A** That could be.

**Q** That's correct given the confession and the findings, right?

MR. MITCHELL: Objection to form. You can answer.

**A** It's a possibility.

**Q** It's not just a possibility. In the ways that I just described your findings contradict portions of the

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Those are the points you're referring to?

MR. MITCHELL: Objection to form. You can answer.

**A** Well, I would not say the order of the murders. You can go from one room to the other and back again.

**Q** The confession does --

**A** Washing of the weapons because I don't find blood in the shower --

MR. MITCHELL: Let him finish his answer, please.

**A** -- or anything there to me, that's, you know, I don't think it's that unusual. You know, it may not be much blood to begin with or maybe they were not washed there.

**Q** Do you think it's possible that Marty Tankleff killed his parents in this matter and did not get much blood on him or the weapon?

**A** I don't know but I've seen it before in very bloody cases. The amount of blood that is around is not reflective of how much blood a person is going to have on

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confession.

MR. MITCHELL: Objection to form. You can answer.

**Q** It's not complicated?

**A** It seems that they do contradict points in the confession, yes.

**Q** Okay. So do your findings cause you to question the reliability of this confession as to those points?

MR. MITCHELL: Objection to form. You can answer.

**A** Well, this is the first time I'm seeing the confession.

**Q** I understand.

**A** And the evidence that I have does not seem to coincide with some of the facts in there so what can I say.

**Q** In fact?

**A** It seems to contradict it at point, yes.

**Q** And, specifically, with regard to the murder weapons, the way Marty purportedly cleaned himself and the weapons off, and the order of the murders, correct?

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**their person.**

**Q** Going back to the order of crimes, the confession does not say Marty killed his mother, killed his father and went back to the mother's bedroom?

MR. MITCHELL: Objection to form. You can answer.

**A** No.

**Q** So your findings do contradict the order of the murders in the confession, correct?

MR. MITCHELL: I object to the form. You can answer.

**A** Seymour's blood has to get onto that bed somehow, either innocently or through this incident.

**Q** I understand the innocent explanation that you hypothesized and that's fair. I'm just setting that aside.

Assuming that there is no innocent explanation, assuming that Seymour Tankleff's blood was not on the headboard of the sheets on September 6th, 1988, would you agree that your findings call into question

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1 R. Baumann  
 2 the order of the murders described in the  
 3 confession?  
 4 MR. MITCHELL: Objection to  
 5 form. You can answer.  
 6 **A Order of the murders, well --**  
 7 **Q** They do, right?  
 8 MR. MITCHELL: Objection to  
 9 form. You can answer.  
 10 Allow him to answer your  
 11 question, please. You may answer  
 12 the question.  
 13 **A Well, his blood has to get in**  
 14 **there somehow and be projected on the sheet**  
 15 **and onto the wall.**  
 16 **Q** Can you answer that question  
 17 yes or no?  
 18 **A I don't think I could answer it**  
 19 **accurately. How his blood gets there I**  
 20 **don't know. And what the order of the**  
 21 **sequence of events here is, I don't know**  
 22 **either.**  
 23 **Q** Let me ask you this.  
 24 Does the presence of Seymour's  
 25 blood in the master bedroom raise a red flag

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1 R. Baumann  
 2 for you about whether the order of the  
 3 murders in the confession may be incorrect?  
 4 MR. MITCHELL: Objection to  
 5 form. You can answer.  
 6 **A It could. It could.**  
 7 **Q** Okay.  
 8 **A It's got to get there somehow.**  
 9 **Q** And the only way you can think  
 10 of it might have gotten there are, as you  
 11 sit here today, is either innocently or by  
 12 somebody killing Seymour and then coming in  
 13 and killing Arlene and getting Seymour's  
 14 blood in the room that way, correct?  
 15 MR. MITCHELL: Objection to  
 16 form. You can answer.  
 17 **A It would appear to me that that**  
 18 **is a possibility, yes.**  
 19 **Q** That's, in fact, the only other  
 20 possibility that you can think of besides an  
 21 innocent explanation, correct?  
 22 **A Unless somebody offered an**  
 23 **alternative scenario.**  
 24 **Q** I'm not asking about all the  
 25 scenarios in the world, I'm asking you what

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1 R. Baumann  
 2 you can think of as you sit here today.  
 3 The only two possibilities that  
 4 you told us that you can think of is that  
 5 the blood got there innocently or the order  
 6 of the murders in the confession is wrong,  
 7 correct?  
 8 MR. MITCHELL: I object to  
 9 form. You can answer.  
 10 It mischaracterizes his  
 11 testimony. It's not what he said.  
 12 MS. FREUDENBERGER: I think it  
 13 is.  
 14 MR. MITCHELL: He said that  
 15 somebody could have come back. He  
 16 did say that.  
 17 **Q** But that would contradict the  
 18 confession too?  
 19 MR. MITCHELL: I don't care.  
 20 The point is he didn't say only  
 21 those two Things.  
 22 MS. FREUDENBERGER: He did.  
 23 That's exactly what he said.  
 24 (Whereupon, the requested  
 25 portion was read back by the court

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1 R. Baumann  
 2 reporter.)  
 3 MR. MITCHELL: Objection to  
 4 form. You can answer.  
 5 **Q** Mr. Baumann, did anybody ask  
 6 you at any point in time to participate in a  
 7 reconstruction of the master bedroom in the  
 8 Tankleff home?  
 9 **A No.**  
 10 MR. MITCHELL: Emma, clockwise  
 11 what time is it now?  
 12 MS. FREUDENBERGER: I have  
 13 15 minutes. I'll be fast.  
 14 **Q** If anybody had come to you and  
 15 asked you to participate in a full-scale  
 16 reconstruction of Arlene Tankleff's bedroom,  
 17 would you have done that?  
 18 **A Yes.**  
 19 **Q** In light of the contradictions  
 20 you've seen today, and to be fair to you, I  
 21 understand you have not seen this confession  
 22 before. This is the first time you've seen  
 23 the confession written out like that,  
 24 correct?  
 25 **A Yes.**

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**Q** Okay. So now, having looked at your results, having lined up your results with the confession, would you agree that when your results came in, given the contradictions between your results and the confession, there should have been a full-scale reconstruction the crime scene?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know.**

**Q** You think that might not have been necessary?

MR. MITCHELL: Objection to form. You can answer.

**A I'm not saying it would not have been necessary, but that was never raised.**

**Q** I understand. Nobody asked you to do that, nobody raised the need for that at all, correct?

**A Correct.**

**Q** Even after you forwarded your results to Detective McCready, correct?

**A Correct.**

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**Q** Detective McCready never asked you to do a reconstruction of the Tankleff crime scene?

**A Correct.**

**Q** He never came to question you about your results, correct?

**A Correct.**

**Q** He never suggested that you should redo any of your analysis?

**A Correct.**

**Q** He never suggested you should do any additional analysis, correct?

**A Correct.**

**Q** He never asked you to look at whether the evidence supported different hypothesis of how the crime may have occurred, correct?

**A Correct.**

**Q** Did any of the other detectives ask you to do any of those things?

**A No.**

**Q** If they had, would you have done whatever it was they asked?

**A In which way?**

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**Q** That's a bad question.

If any detective had come to you and asked you to participate -- You've already told me that if any detective came to you and asked you to participate in a reconstruction of, let's say, the master bedroom, you would have done that, correct?

**A Yes.**

**Q** If any detective had come to you and asked you any questions about your analysis, you would have answered them, correct?

**A Yes.**

**Q** If any detective had come to you and said, hey -- something like, hey, it looks like your analysis contradicts the confession in some key ways, you would have agreed with them, right?

MR. MITCHELL: Objection to form. You can answer.

**A Well, my findings are what they are.**

**Q** If anybody had asked you, hey, do your findings support or contradict the

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confession, you would have told them that they contradict the confession in certain ways, correct?

**A They seem to, yes.**

**Q** And you would have told the detective that had he or she asked, correct?

**A Yes.**

**Q** I think one of the things you told me at the beginning of the deposition, and correct me if I'm wrong, it's an important principal of crime scene analysis that when you have a working hypothesis you go back and revisit it in light of what the evidence shows, correct? That's a basic principal, correct?

**A Right.**

**Q** And that was a basic principal of crime scene analysis back in 1988, right?

**A Yes.**

**Q** It's important to revisit your working hypothesis of the crime based on the analysis of the evidence as it comes in, right?

MR. MITCHELL: Objection to

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1 R. Baumann  
 2 form. You can answer.  
 3 **A Yes.**  
 4 **Q** That's true whether your  
 5 hypothesis of the crime comes from a  
 6 confession, or a witness account or just a  
 7 detective's hunch, correct?  
 8 MR. MITCHELL: Objection to  
 9 form. You can answer.  
 10 **A Yes. Based on the physical**  
 11 **evidence, somebody investigating the case, I**  
 12 **would think should consider what the**  
 13 **evidence is and use that as part of their**  
 14 **investigation.**  
 15 **Q** It's a basic principal of crime  
 16 scene analysis that you consider whether the  
 17 evidence supports or contradicts your  
 18 working theory of the case, correct?  
 19 MR. MITCHELL: Objection to  
 20 form. You can answer.  
 21 **A Yes.**  
 22 **Q** Whether that theory comes from  
 23 a confession or a witness account or  
 24 anywhere else, correct?  
 25 **A Yes, it's all part of the**

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1 R. Baumann  
 2 **investigation; witness statements, physical**  
 3 **evidence.**  
 4 **Q** Okay. And would you agree that  
 5 in light of what you've seen here today,  
 6 there should have been a full-scale  
 7 reconstruction of the Tankleff crime scene  
 8 given the contradictions between your  
 9 analysis and the confession?  
 10 MR. MITCHELL: Objection to  
 11 form. You can answer.  
 12 **A Would it be my opinion that a**  
 13 **reanalysis should have been done?**  
 14 **Q** Yes.  
 15 MR. MITCHELL: Objection to  
 16 form. You can answer.  
 17 **A I don't know if that's up to me**  
 18 **to decide. You know, I'm not heading this**  
 19 **investigation.**  
 20 **Q** It's not and it's over. I  
 21 think you already told me that's not your  
 22 decision. That's the lead detective's  
 23 decision, correct?  
 24 **A Yes.**  
 25 **Q** That was the lead detective's

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1 R. Baumann  
 2 decision back in 1988, not yours, correct?  
 3 **A The detective and also the**  
 4 **District Attorney's office, they are the**  
 5 **ones handling the investigation.**  
 6 **Q** Okay, but during the  
 7 investigation, before you even get to the  
 8 District Attorney, that's the lead  
 9 detective's prerogative whether a full-scale  
 10 reconstruction should be done, yours,  
 11 correct?  
 12 MR. MITCHELL: Objection to  
 13 for. You can answer.  
 14 **A Yes, I would think.**  
 15 **Q** And if the lead detective had  
 16 asked you whether you thought that was  
 17 necessary in this case, I gather you would  
 18 have said yes, correct?  
 19 MR. MITCHELL: Objection to  
 20 form. You can answer.  
 21 **A I don't know what I would have**  
 22 **said.**  
 23 **Q** All right. Again, after you  
 24 forward the results of your analysis to the  
 25 detectives in charge of the case, nobody

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1 R. Baumann  
 2 ever asked you to go back and do any  
 3 additional analysis in light of the  
 4 contradictions between what you found and  
 5 the confession, correct?  
 6 MR. MITCHELL: Objection to  
 7 form. You can answer.  
 8 **A Correct.**  
 9 **Q** If they had, you would have  
 10 done so, correct?  
 11 **A Yes, I would have considered**  
 12 **it, yes.**  
 13 **Q** Is there any chance you would  
 14 not have done that if a detective had asked?  
 15 **A To be specific, about what?**  
 16 **Q** If anybody detective had asked  
 17 you to revisit any of your testing or  
 18 analysis in light of the contradictions  
 19 between what you found and the confession,  
 20 you would have agreed, correct?  
 21 MR. MITCHELL: Objection to  
 22 form. You can answer.  
 23 **Q** You would not have said, no,  
 24 I'm done. Sorry, go somewhere else.  
 25 **A If there was any doubt as to my**

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R. Baumann

R. Baumann

**results?**

**Q** No, if anybody had asked you to consider -- You told me earlier that one thing you do when you do your testing, you're not doing it in a vacuum, you're considering everything that's known about the crime scene, correct?

**A Right.**

**Q** And if anybody said, hey, can you reconsider whether the murders happened in a different order, you would have done that, right?

**A Yes.**

MR. MITCHELL: Objection to the form. You can answer.

**Q** If anybody had asked you to test the rest of the evidence on the sheets, for example, to see whether there was more of Seymour's blood in the master bedroom, you would have done that, correct?

**A Yes.**

**Q** And if there had turned out to be more of Seymour's blood in the master bedroom, that would indicate that everybody

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R. Baumann

should look a little harder at the order of the murder and whether the murderer in the confession was correct, correct?

MR. MITCHELL: Objection to form. You can answer.

**A I guess.**

**Q** That's an example of the way you could have --

MR. MITCHELL: Wait one second.

Don't guess. I know it's a figure of speech.

**Q** When you said, I guess, you mean yes, correct?

MR. MITCHELL: Objection to form. You can answer.

**A All of this, you're going back**

**25 years. Everything is all Monday morning quarterbacking here.**

**No, it was not requested. I had done 16 stains on the sheets and that's what was done at the time. Nobody came back and said reanalyze more of this and that.**

**Q** I understand, and I'm asking you to Monday morning quarterback. This is

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1

R. Baumann

what I'm saying. You did not test every single item in the Tankleff home, right?

**A No.**

**Q** There were more possibilities to consider, things to test. It's infinite to an extent, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Yes.**

**Q** There are more different hypothesis and possibilities that could have been considered as it pertains to this crime scene, correct?

MR. MITCHELL: Objection to form. You can answer.

**A I don't know.**

**Q** Well, if a detective had asked you to do additional testing, test additional items, consider whether additional scenarios were supported by your analysis, you would have done that, correct?

MR. MITCHELL: Objection to form. You can answer.

**A Perhaps.**

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R. Baumann

**Q** If a detective would come to you and say, hey, can you consider whether two people and not one had committed this crime, you would have done the analysis they requested, correct?

MR. MITCHELL: Objection to form. You can answer.

**A In what way?**

**Q** Well, let's use the example we were talking about. You did not test all the stains in the sheets in the master bedroom, right?

**A Right.**

**Q** You did test two stains that came back to Seymour's blood, correct?

**A Correct.**

**Q** If a detective had come to you and said, hey, I notice you found Seymour's blood in the master bedroom, do you think we should test more stains to see if there was more of Seymour's blood, you may have said yes, correct?

**A I don't know.**

MR. MITCHELL: Objection to

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1 R. Baumann  
 2 form. You can answer.  
 3 **A I would have said why did we**  
 4 **need to find more of Seymour's blood on the**  
 5 **bed.**  
 6 **Q** If a detective had asked you to  
 7 look and see if there was more of Seymour's  
 8 blood on the bed, you would have done so?  
 9 **A I don't know.**  
 10 **Q** You think you might have said  
 11 no?  
 12 **A I might have.**  
 13 **Q** Okay. Mr. Baumann, you  
 14 understand that Marty Tankleff's conviction  
 15 was reputed in 2007, correct?  
 16 MR. MITCHELL: Objection to  
 17 form. You can answer.  
 18 **A Yes.**  
 19 **Q** And you understand that the  
 20 indictment is -- Certainly you know that the  
 21 State did a reinvestigation, right?  
 22 **A Yes.**  
 23 **Q** You were interviewed as part of  
 24 that investigation?  
 25 **A Yes.**

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1 R. Baumann  
 2 **Q** And after that investigation  
 3 dismissed the indictment against Marty?  
 4 **A Yes.**  
 5 **Q** Based on what you have seen  
 6 today, lining up the confession and the  
 7 results of your analysis back in 1988 for  
 8 the first time, would you agree that it's  
 9 unlikely Marty Tankleff could have committed  
 10 these crimes in the way that is described in  
 11 this confession?  
 12 MR. MITCHELL: Objection to  
 13 form. You can answer.  
 14 **A I don't know that I could come**  
 15 **to that opinion. I don't know that I have**  
 16 **all the facts in the case that allow me to**  
 17 **make that judgement.**  
 18 **Q** Okay. Would you agree, just  
 19 based on the contradictions between your  
 20 analysis and the confession, it's at a  
 21 minimum questionable that Marty Tankleff  
 22 could have committed these crimes in the way  
 23 the confession describes?  
 24 MR. MITCHELL: Objection to  
 25 form. You can answer.

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1 R. Baumann  
 2 **A Is it questionable? I don't**  
 3 **know. I don't know.**  
 4 **Q** Would you agree that your  
 5 analysis raises red flags about the accuracy  
 6 of Marty Tankleff's confession?  
 7 MR. MITCHELL: Objection to  
 8 form. You can answer.  
 9 **A My analysis should raise**  
 10 **questions about what's in his confession --**  
 11 **Q** Okay.  
 12 **A -- and obviously it does.**  
 13 **Q** Specifically, because your  
 14 analysis suggests that particular parts of  
 15 the confession are likely inaccurate,  
 16 correct?  
 17 MR. MITCHELL: Objection to  
 18 form. You can answer.  
 19 **A I don't know if it's accurate**  
 20 **or inaccurate, but there are obviously**  
 21 **several inconsistencies, so as to accuracy I**  
 22 **can't speak.**  
 23 **Q** Fair enough. But there are  
 24 several inconsistencies between the results  
 25 of your analysis and the confession; fair to

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1 R. Baumann  
 2 say?  
 3 MR. MITCHELL: Objection to  
 4 form. You can answer.  
 5 **A Yes.**  
 6 **Q** In other words, there is an  
 7 inconsistency between your analysis and the  
 8 murder weapons identified in the confession,  
 9 correct?  
 10 MR. MITCHELL: Objection to  
 11 form. You can answer.  
 12 **A The murder weapons? Well,**  
 13 **there is no blood on the knife that he said**  
 14 **that he used. It was taken apart. There**  
 15 **was no blood on the knife.**  
 16 **Q** Would you agree that based on  
 17 the fact that you took the knife apart and  
 18 there was no blood found anywhere, it's very  
 19 unlikely that that knife which you tested  
 20 was actually the murder weapon used to slit  
 21 Arlene and Seymour Tankleff's throats as  
 22 Marty described in the confession?  
 23 MR. MITCHELL: Objection to  
 24 form. You can answer.  
 25 **A I can't go to that extent and**

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R. Baumann

**rule that out.**

**Q** Okay. Did you have any conversations with anybody at any point in time during or after your analysis of the evidence from the Tankleff crime scene about the fact that your results contradicted the confession in more than one way?

MR. MITCHELL: Objection to form. You can answer.

**A Not that I recall, no. Again, this is the first time I'm seeing the confession.**

**Q** If you had seen the confession back then, you might have raised those concerns; fair to say?

MR. MITCHELL: Objection to form. You can answer.

(Continued on next page to include jurat.)

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R. Baumann

**A I don't know. You're asking a hypothetical and I can't answer that.**

MS. FREUDENBERGER: I think that's all I have. Thank you very much.

MR. MITCHELL: You're welcome.  
(Time noted: 6:00 p.m.)

ROBERT BAUMANN

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2014.

NOTARY PUBLIC

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1  
2 ERRATA SHEET FOR THE TRANSCRIPT OF:  
3 Case Name: Martin Tankleff vs The County of  
Suffolk, James McCready, et al  
4 Deposition Date: July 18, 2014  
Witness: Robert Baumann  
5

6 CORRECTIONS

7 PG LN NOW READS SHOULD READ REASON FOR

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21 Signature

22  
23 Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

24  
25 (NOTARY PUBLIC)

FEVOLA REPORTING & TRANSCRIPTION INC. (631) 724-7576

1  
2 CERTIFICATION

3 I, DOLLY FEVOLA, a Notary Public in  
4 and for the State of New York, do hereby certify:

5 THAT the witness whose testimony is herein  
6 before set forth, was duly sworn by me; and  
7 THAT the within transcript is a true record  
8 of the testimony given by said witness.

9 I further certify that I am not related,  
10 either by blood or marriage, to any of the parties  
11 to this action; and

12 THAT I am in no way interested in  
13 the outcome of this matter.

14 IN WITNESS WHEREOF, I have hereunto  
15 set my hand this 5th day of August, 2014.

16  
17  
18  
19 DOLLY FEVOLA  
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